



City of Wichita Falls City Council Agenda

Stephen Santellana, Mayor
Bobby Whiteley, At Large
Michael Smith, District 1
DeAndra Chenault, Mayor Pro Tem
Jeff Browning, District 3
Tim Brewer, District 4
Steve Jackson, District 5



Darron Leiker, City Manager
Kinley Hegglund, City Attorney
Marie Balthrop, City Clerk

Notice Of Regular Meeting Of The Mayor And City Council Of The City Of Wichita Falls, Texas, To Be Held In The City Council Chambers, Memorial Auditorium, 1300 Seventh Street, Tuesday, April 20, 2021, Beginning At 8:30 A.M.

This meeting can be accessed and viewed at the following locations:

1. The video may be livestreamed on the City's YouTube page (<https://www.youtube.com/cityofwf>)
2. A livestream will be shown on the Spectrum/Time Warner Cable Channel 1300
3. A livestream will be shown on the City's Facebook page (City of Wichita Falls, Texas Government) (<https://www.facebook.com/CityofWF>)
4. A video of the meeting will be posted on the City's YouTube page (<https://www.youtube.com/cityofwf>)

Item #

1. Call to Order
2.
 - (a) Invocation: Pastor Keith Daugherty
Mercy Church
 - (b) Pledge of Allegiance
3. Presentations
 - (a) Proclamation – World Autism Awareness Month, Autism Speaks
 - (b) Presentation – Texas Coalition for Affordable Power (TCAP) 20th Year Presentation, Margaret Somereve, Executive Director
 - (c) Presentation of Comprehensive Annual Financial Report by Edgin, Parkman, Fleming, & Fleming, PC

CONSENT AGENDA

4. Approval of minutes of the Mayor and City Council
 - (a) Strategic Planning Session, March 30-31, 2021
 - (b) City Council Meeting, April 6, 2021
5. Receive Minutes
 - (a) Wichita Falls Sales Tax Corporation, February 4, 2021
 - (b) Lake Wichita Revitalization Committee, March 9, 2021

REGULAR AGENDA

6. Ordinances
 - (a) Ordinance making an appropriation to the Special Revenue Fund for Public Health Emergency Preparedness Cooperative Grant in the amount of \$60,000. Received from the Department of State Health Services and authorizing the City Manager to execute contract accepting same
 - (b) Ordinance amending City Ordinance ARTICLE VII. – REGULATIONS FOR DISPOSAL OF INDUSTRIAL WASTEWATER to incorporate revisions concerning a Texas Commission on Environmental Quality (TCEQ) Industrial Pretreatment Audit
7. Resolutions
 - (a) Resolution authorizing the replacement of a 60,000 pound, pressurized, Carbon Dioxide tank at the Jasper Water Treatment Plant, by Green and Sustainable Services LLC, in the amount of \$274,240.00
 - (b) Resolution authorizing the City Manager to enter into an Interlocal Cooperation Agreement with Midwestern State University for Fire Suppression activities, Search & Rescue activities, Radiological Protection activities and Hazardous Materials response, as well as responses to natural or manmade disasters
 - (c) Resolution authorizing the City Manager to enter into an Interlocal Cooperation Agreement with Midwestern State University (MSU) for Public Safety and Municipal Court Services
 - (d) Resolution to accept the written offer as presented for 1 Trustee parcel and authorizing execution of the Quitclaim Deed to convey title to Laurisa M. Ford
 - (e) Resolution allowing the City-owned property located at 1823 5th. Street also known as Lot 1-C, Block 7, Bellevue Addition, Wichita Falls, Wichita County,

Texas to be sold to The Redeemed Christian Church of God for \$300,000 as authorized by Section 272.001 of the Texas Government Code and authorizing execution of a Warranty Deed to convey title

- (f) Resolution approving the programs and expenditures of the Wichita Falls Type B Sales Tax Corporation Board of Directors and amending the budget to include funding up to \$55,700 to Jerry Skelton, c/o Chelsea Plaza, LLC, to assist in sewer infrastructure upgrades as part of the renovation of the existing building at 909 8th Street downtown
- 8. Other Council Matters
Items of concern to members of the City Council
 - 9. Comments from the public to members of the city council concerning items that are not on the city council agenda. People wishing to address the council should sign up prior to the start of the meeting. A three-minute time frame will be adhered to for those addressing their concerns. Since comments from citizens are not posted agenda items, the City Council is prohibited from deliberating or taking any action, other than a proposal to place the item on a future agenda. Staff may provide factual statements in response to inquiries or recite existing policy.
 - 10. Executive Sessions
 - (a) Executive Session in accordance with Texas Government Code §551.087 to discuss or deliberate the offer of a financial or other incentive to a business prospect that the City Council seeks to have, locate, stay, or expand in or near the territory of the City of Wichita Falls and with which the City and/or economic development corporations created by the City are conducting economic development negotiations (including, but not limited to, economic development update).
 - (b) Executive Session in accordance with Texas Government Code §551.074 to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, dismissal of a public officer or employee, including, but not limited to members of the following boards and commissions:
 - Wichita-Wilbarger 9-1-1 District Board
 - (c) Executive Session in accordance with TEXAS GOVERNMENT CODE §551.072, to deliberate the purchase, exchange, lease or value of real property at 1823 5th Street and 1101 Tulsa Street.
 - 11. Appointment to Wichita-Wilbarger 9-1-1 District Board
 - 12. Adjourn

Spanish language interpreters, deaf interpreters, Braille copies or any other special needs will be provided to any person requesting a special service with at least 24 hours' notice. Please call the City Clerk's Office at 761-7409.

Every item on this agenda shall be considered a public hearing. Regardless of the agenda heading under which any item is listed, any word or phrase of any item listed on this agenda shall be considered a subject for consideration for purposes of the Texas Open Meetings Act and other relevant law, and City Council may deliberate and vote upon any such subject and resolutions related thereto. Resolutions, ordinances, and other actions concerning any word, phrase, or other subject may be voted upon, regardless of any language of limitation found in this agenda or any document referring to such action. Any penal ordinance, development regulation or charter provision of the City of Wichita Falls or item which is funded by the current or next proposed City of Wichita Falls budget, including, without limitation, any street, water pipe, sewer, drainage structure, department, employee, contract or real property interest of the City of Wichita Falls, may be discussed and deliberated, and the subject is hereby defined as such without further notice. Any item on this agenda may be discussed in executive session if authorized by Texas law regardless of whether any item is listed under "Executive Sessions" of this agenda, regardless of any past or current practice of the City Council. Executive sessions described generally hereunder may include consideration of any item otherwise listed on the agenda plus any subject specified in the executive session notice. Executive sessions described generally hereunder are closed meetings, may include consideration of any item otherwise listed on the agenda plus any subject specified in the executive session notice, and may include items under Texas Government Code Sections 551.071, 551.072, 551.073, 551.074, 551.076, 551.084, and/or 551.087.

CERTIFICATION

I certify that the above notice of meeting was posted on the bulletin board at Memorial Auditorium, Wichita Falls, Texas on the 14th day of April, 2021 at 3:30 o'clock p.m.



City Clerk



City of Wichita Falls
City Council Meeting
Minutes
March 30-31, 2021



The City Council of the City of Wichita Falls, Texas met in special council/staff planning session on the above date in the Multi-Purpose Events Center at 8:30 o'clock a.m., with the following members present.

| | | |
|-----------------------|---|---------------|
| Stephen L. Santellana | - | Mayor |
| Tim Brewer | - | Councilors |
| Jeff Browning | - | |
| DeAndra Chenault | - | |
| Steve Jackson | - | |
| Michael Smith | - | |
| Bobby Whiteley | - | |
| | | |
| Darron Leiker | - | City Manager |
| Kinley Heggland | - | City Attorney |
| Marie Balthrop | - | City Clerk |

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Facilitator David Eisenlohr, Azimuth Group, discussed ground rules, and expectations of the workshop. Mr. Eisenlohr discussed the structure of a strategic plan, and the background from the 2019 planning session.

Mr. Eisenlohr facilitated a discussion reviewing hits, misses, and lessons learned since the last strategic planning session in 2019. He discussed the current Vision, Mission, and Values statements and asked Council and Staff if any changes were needed. A discussion was held on current strategic challenges and opportunities that the city is facing today.

Council and staff participated in a Gap analysis for each strategic goal to assess where we are today, where we want to be in the future, and what actions need to be taken to close the gap.

Mr. Eisenlohr presented a recap of the day and an overview of the goals for day two. The meeting recessed for the evening at 4:00 p.m.

The meeting reconvened at 8:30 a.m. on Wednesday, March 31, 2021. The same members were in attendance.

Mr. Eisenlohr led a review and reflection of day one and presented a draft plan with updated strategic goals. Council prioritized the current goals and objectives. There was discussion about goal prioritization and whether or not additional changes needed to be made to the plan. Mr. Eisenlohr provided interpretation of the priority rankings. Based upon the gap analysis and goal prioritization, there was discussion about changes that need to be made to the strategic goals and objectives.

Mr. Eisenlohr will prepare a report with the results of the strategic planning meeting reflecting the changes and it will be presented to the City Manager and City Council.

The meeting adjourned at 11:45 a.m.

PASSED AND APPROVED this 20th day of April, 2021.

Stephen L. Santellana, Mayor

ATTEST:

Marie Balthrop, TRMC, CMC
City Clerk



City of Wichita Falls
City Council Meeting
Minutes
April 6, 2021



Item 1 - Call to Order

The City Council of the City of Wichita Falls, Texas met in regular session on the above date in the Council Chambers of the Memorial Auditorium Building at 8:30 o'clock a.m., with the following members present.

| | | |
|-----------------------|---|---------------|
| Stephen L. Santellana | - | Mayor |
| DeAndra Chenault | - | Mayor Pro Tem |
| Tim Brewer | - | Councilors |
| Jeff Browning | - | |
| Steve Jackson | - | |
| Michael Smith | - | |
| Bobby Whiteley | - | |
| | | |
| Darron Leiker | - | City Manager |
| Kinley Heggland | - | City Attorney |
| Marie Balthrop | - | City Clerk |

Mayor Santellana called the meeting to order at 8:31 a.m.

Item 2a – Invocation

Pastor Harold Roan, Lamar Baptist Church, gave the invocation.

Item 2b – Pledge of Allegiance

Mayor Santellana led the Pledge of Allegiance.

Item 3a – Employee of the Month – Randall Dunn, AT&T/Fleet Maintenance

8:33 a.m.

John Burrus, Director of Aviation, Traffic, and Transportation, recognized Randall Dunn as the Employee of the Month for April 2021. Mayor Santellana congratulated Mr. Dunn and presented him with a plaque, letter of appreciation, restaurant voucher, and check, and thanked him for his service.

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Item 3b – Proclamation – National Telecommunicator Week,

Police/Communications

8:36 a.m.

Mayor Santellana read a proclamation proclaiming April 11-17, 2021 as Public Safety Telecommunicator Week in the City of Wichita Falls. This week we honor the dedicated service our telecommunicators bring to our community and for their key role in preserving public safety during a challenging year.

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Item 4-5 – Consent Items

8:40 a.m.

City Manager Darron Leiker gave a briefing on the items listed under the Consent Agenda.

Moved by Councilor Browning to approve the items on the consent agenda.

Motion seconded by Councilor Smith and carried by the following vote:

Ayes: Mayor Santellana, Councilors Brewer, Browning, Chenault, Jackson, Smith, and Whiteley.

Nays: None

Item 4 – Approval of minutes of the March 16, 2021 Regular Meeting of the Mayor and City Council

Item 5 – Receive Minutes

(a) Wichita Falls-Wichita County Public Health Board, January 8, 2021

(b) Planning & Zoning, January 13, 2021

(c) Wichita Falls Economic Development Corporation, January 26, 2021

(d) Park Board, January 28, 2021

Item 6a – Ordinance 07-2021

8:41 a.m.

Consider and adopt an ordinance by the City Council of the City of Wichita Falls, Texas, to adopt a process by which the City Clerk may terminate the campaign treasurer appointment of an inactive candidate or political committee.

Moved by Councilor Chenault to approve Ordinance 07-2021.

Motion seconded by Councilor Browning and carried by the following vote:

Ayes: Mayor Santellana, Councilors Brewer, Browning, Chenault, Jackson, Smith, and Whiteley.

Nays: None

Item 6b – Ordinance 08-2021

8:42 a.m.

Ordinance making an appropriation to the Special Revenue Fund for Immunization Grant funding in the amount of \$64,572 received from the Department of State Health Services and authorizing the City Manager to execute contract accepting same.

Moved by Councilor Brewer to approve Ordinance 08-2021.

Motion seconded by Councilor Jackson and carried by the following vote:

Ayes: Mayor Santellana, Councilors Brewer, Browning, Chenault, Jackson, Smith, and Whiteley.

Nays: None

Item 6c – Ordinance 09-2021

8:43 a.m.

Ordinance making an appropriation to the Special Revenue Fund for Public Health Emergency Preparedness in the amount of \$124,416 received from the Department of State Health Services and authorizing the City Manager to execute contract accepting same.

Moved by Councilor Chenault to approve Ordinance 09-2021.

Motion seconded by Councilor Browning and carried by the following vote:

Ayes: Mayor Santellana, Councilors Brewer, Browning, Chenault, Jackson, Smith, and Whiteley.

Nays: None

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Item 6d – Ordinance 10-2021

8:45 a.m.

Ordinance appropriating \$12,957.34 to the Special Revenue Fund for additional direct award grant revenue from the State of Texas for the Texas Department of Transportation Selective Traffic Enforcement Program (“Click It or Ticket”) Wave Grant for Fiscal Year 2021 and authorizing the City Manager to accept said funds.

Moved by Councilor Brewer to approve Ordinance 10-2021.

Motion seconded by Councilor Jackson and carried by the following vote:

Ayes: Mayor Santellana, Councilors Brewer, Browning, Chenault, Jackson, Smith, and Whiteley.

Nays: None

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Item 7a – Resolution 36-2021

8:46 a.m.

Resolution authorizing the City Manager to award bid and contract for the Sanitation Dumpster Maintenance Service Contract to Gloria Villarreal Welding.

Moved by Councilor Chenault to approve Resolution 36-2021.

Motion seconded by Councilor Browning and carried by the following vote:

Ayes: Mayor Santellana, Councilors Brewer, Browning, Chenault, Jackson, Smith, and Whiteley.

Nays: None

Item 7b – Resolution 37-2021

8:48a.m.

Resolution authorizing award of bid for the City's estimated annual requirement of Class S ready mix and Flowable Fill to Falls Concrete, LLC in the amount of \$330,400.00; and Class A, Curb & Gutter and Class C-C ready mix to OK Concrete Company in the amount of \$129,700.00.

Moved by Councilor Brewer to approve Resolution 37-2021.

Motion seconded by Councilor Smith and carried by the following vote:

Ayes: Mayor Santellana, Councilors Brewer, Browning, Chenault, Jackson, Smith, and Whiteley.

Nays: None

Item 7c – Resolution 38-2021

8:51 a.m.

Resolution selecting Geograph Industries, Inc. as the sole source for the repair of the Wayfinding Signs, and authorizing the City Manager to negotiate and execute a contract with said Geograph Industries, Inc. in a total amount that shall not exceed \$181,000.00.

Moved by Councilor Chenault to approve Resolution 38-2021.

Motion seconded by Councilor Browning and carried by the following vote:

Ayes: Mayor Santellana, Councilors Brewer, Browning, Chenault, Jackson, Smith, and Whiteley.

Nays: None

Item 7d – Resolution 39-2021

8:55 a.m.

Consider and approve a resolution approving a resolution of the Wichita Falls Economic Development Corporation (WFEDC) authorizing the issuance of the Corporation's sales tax revenue bonds; approving a sales tax remittance agreement; and enacting other provisions relating to the subject.

Moved by Councilor Brewer to approve Resolution 39-2021.

Motion seconded by Councilor Smith.

It was noted that bond payments will be made with existing sales tax revenues that are allocated for economic development.

The motion carried by the following vote:

Ayes: Mayor Santellana, Councilors Brewer, Browning, Chenault, Jackson, Smith, and Whiteley.

Nays: None

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Item 8a1 – COVID-19 Update, Lou Kreidler, Director of Health

9:10 a.m.

There are 8,000 doses of vaccine coming into our community this week. These doses are not allocated to the Health Department and will be distributed to other local facilities providing vaccines. The number of cases has declined and there was one day last week where no new cases were reported. Mrs. Kreidler noted that it was public Health Week and that normally there would be a Health Fair during this time, but it was not being held this year due to COVID. This past year has been the most challenging year she has experienced in her twenty years, and she wanted to take the time to thank her staff. She noted that it has been a busy year on top of dealing with the pandemic and that staff took on additional roles due to COVID while still completing their normal duties while participation in their programs increased. Mrs. Kreidler thanked her staff for a year of hard work, dedication, and passion.

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Item 8a2 – CVB Update – Lindsay Barker, Director of Communications and Marketing

9:14 a.m.

Ms. Barker shared a short video announcing the new Convention and Visitors Bureau website and app. She recognized Susan Kimes, CVB Marketing Manager, who designed the website and completed all of the work to create the website and app and thanked her for her work. Since the app was announced last week it has been downloaded over 150 times, and they have received over 900 new users and over 2600 views on the website. The average time spent by users on the website has increased and they have had users from other areas in Texas and out of state. Ms. Barker presented the website and reviewed the different pages of information included. They are extremely proud of the new website and app and what these tools offer our community. A strong website and app are two of the most important tools they can have to increase tourism. It was noted that by completing this project in house the city saved over \$10,000.

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Item 8b – Items of Concern to Members of the City Council

9:28 a.m.

Councilor Smith commented on a recent article in the Times Record News regarding the completion of the Maplewood extension project that stated the project would be completed later this year. Council Smith stated that the project is currently wrapping up and would be completed within the next few months.

Councilor Jackson thanked Denise Roberts with Patsy's House for the Save Jane event held last week. There are 2,882 children in our area served by Patsy's House that have been abused. He encouraged citizens to stay aware and thanked everyone that supported the event. He attended Texans for Vaccine Choice, and encouraged citizens to visit their website or contact him with any questions.

Councilor Brewer attended the Kiwanis Park playground opening where they also sold pancake mix and sausage in lieu of the annual pancake feed. The housing market is still doing great with high sales. People are moving to Wichita Falls and he was excited to see the article in the newspaper regarding people that sold their house in California, moved here and bought a house, and still had money to live on. This is a testament to our economy as compared to others. Wichita Falls is a great place to live with a low cost of living, and he believes we are growing.

Councilor Whiteley congratulated Randall Dunn, employee of the month. He attended the Sheppard Air Force Base main gate opening and it was a great event. He thanked the entities involved for making that project come together and noted that there were state senators and representatives that attended. Kuddos to the police officers that recently retired, and to those that received awards. He is glad that we are having those ceremonies again and thanked the families of those that retired for all of the sacrifices they made over the years.

Councilor Chenault invited everyone to attend the grand opening of the Lynwood East Community Center on April 19th from 5:00 – 6:00 p.m. She thanked Blake Jurecek, Assistant City Manager, for his work on this project. Councilor Chenault stated that Franklin Pharmacy has Johnson and Johnson vaccine first come first served and that Walgreens also had 138 doses of vaccine available for appointments. On April 5th the city will begin renting our community centers out and citizens can contact the Parks and Recreation department to make reservations.

Mayor Santellana stated that he attended the Sheppard Air Force Base main gate opening and had the opportunity to visit with Representative Springer, who stated that Wichita Falls is very relevant to him. Congressman Jackson made a special trip to attend the event as well. Hats off to our staff for their hard work on this project, it was great to see three entities work together to get this completed. Council just completed our strategic planning process and it was nice to see we are still on the same path. He thanked Council and staff for the time they committed to the strategic planning session. The completion of the Linwood East Community Center is a huge asset to our community. He hopes everyone had a happy Easter.

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Item 9 – Comments from the Public to Members of the City Council Concerning Items That Are Not on the City Council Agenda

10:49 a.m.

Jean Hall, 4112 Kingsbury Dr., addressed the Council to discuss the Wichita Falls Youth Symphony Orchestra, the importance of arts in our community, and expressed her appreciation to the City for their support. She invited everyone to the Youth Symphony Orchestra performance on Sunday April 25th at Friendship Park in Burkburnett at 4:00 p.m.

Alicia Deges, 1300 Lamar, Executive Director of the Wichita Falls Symphony Orchestra, addressed the Council to discuss the Wichita Falls Symphony Orchestra. She discussed the importance of the arts, the impact the arts have on citizens, and the diversity of music offered by the orchestra. Ms. Deges noted that the majority of the performers are from out of town and contribute to our economy while they are here for performances. She invited everyone to the last concert of the season on April 17th at Memorial Auditorium. Additional information can be found on their website at wfso.org.

Barbara James, 1001 Redwood, addressed the Council regarding the Eastside of Wichita Falls. She presented a petition that included names of citizens supporting her efforts. Ms. James discussed what she described as the disaster on Eastside and stated that it looks like a ghost town. She addressed the lack of businesses in the area, and discussed many issues she has experienced in the Washington Village apartment complex. She asked the council to consider taking action.

Item 10 – Executive Session

10:46 a.m.

No executive session was held.

Item 11 –Adjourn

Mayor Santellana adjourned the meeting at 9:53 a.m.

PASSED AND APPROVED this 20th day of April 2021.

Stephen L. Santellana, Mayor

ATTEST:

Marie Balthrop, TRMC, MMC
City Clerk

**MINUTES OF THE
WICHITA FALLS 4B SALES TAX CORPORATION (4BSTC)**

February 4, 2021

Present:

| | | |
|---|---|-------------------------------|
| Tony Fidelie, President | § | Members |
| Rick Hatcher, Secretary-Treasurer | § | |
| Dave Clark | § | |
| Darron Leiker | § | |
| Michael Mills | § | |
| Nick Schreiber | § | |
| Stephen Santellana, Mayor | § | Mayor and Council |
| Bobby Whiteley, Councilor at-Large | § | |
| Paul Menzies, Assistant City Manager | § | City Staff |
| Blake Jurecek, Assistant City Manager | § | |
| R. Kinley Heggland, Jr., City Attorney | § | |
| Terry Floyd, Director, Development Services | § | |
| Jessica Williams, CFO/Finance Director | § | |
| Pat Hoffman, Property Administrator | § | |
| Linda Merrill, Recording Secretary | § | |
| Jana Schmader | § | DWFD |
| Madeleine Calcote | § | Museum of North Texas History |
| John Dickinson | § | Half Pint III, LLC |
| Denton Keltner | § | |
| Tyler Sales | § | Anchored DT, LLC |
| Lynn Walker | § | <i>Times Record News</i> |

Absent:

| | | |
|------------------------------|---|--------|
| Glenn Barham, Vice-President | § | Member |
|------------------------------|---|--------|

1. Call to Order.

Tony Fidelie called the meeting to order at 3:02 p.m.

2. Approval of Minutes of 12/3/20.

Dave Clark moved for approval, seconded by Rick Hatcher. The motion carried 6-0.

3. Report of Financial Condition

Paul Menzies said February sales tax receipts (reflective of December sales) are a week away from being reported. However, the sales tax receipts for October and November are 1.77% ahead of the same time last year. The Board has \$6.6 million in its unreserved fund balance.

He noted that the Finance team worked long and hard to modernize the Board's spreadsheet. Mr. Fidelie expressed the Board's appreciation for their effort.

4. Public hearing regarding a request from Denton Keltner, dba Half Pint III LLC, for an extension to the existing funding agreement to renovate the building at 809 Ohio into a mixed use retail and entertainment establishment.

Mr. Fidelie opened the public hearing at 3:03 p.m. Mr. Menzies said the first two projects before the Board were approved shortly before the Covid-19 pandemic really hit. The funding agreement with Half Pint III LLC to renovate the building at 809 Ohio was for nearly \$51,000. They are requesting a five-month extension until August 1.

Denton Keltner, 905 9th Street, Wichita Falls. He noted the Board had received his formal request for the extension, as well as a timeline of the work performed and associated delays. More work had to be done than was anticipated, such as the complete removal and replacement of the slab, and the repair of two walls damaged by high winds. There have been multiple occasions of rain and shortages of material. All building materials are now in, and the project is expected to move swiftly once construction gets underway.

Nick Schreiber asked if the five-month extension provides sufficient time. Mr. Keltner said a couple more months would be nice. He does not anticipate any major delays but he has no way of knowing that in today's environment.

Mr. Fidelie said the Board appreciates the efforts to improve the downtown area. There being no further discussion, he closed the public hearing at 3:08.

5. Public hearing regarding a request from Tyler Sales, c/o Anchored DT LLC, for an extension to the existing funding agreement to renovate the building at 620 Ohio into a mixed use establishment.

Mr. Fidelie opened the public hearing at 3:09 p.m. Mr. Menzies said this project was approved last March at a cost of \$42,411.50. They are requesting a short extension until June 1.

Tyler Sales, 813 8th Street, Suite 506, Wichita Falls. He spoke on behalf of Anchored DT's request for a 90-day extension. Historic research done on 620 Ohio revealed that the structure used to be two units. So they have installed a partition wall between the two units. Unit 1 should be ready for final inspection by the end of the month, with Unit 2 ready shortly thereafter.

Delays were due to the Covid-19 pandemic as well as the application process for state and federal historic committees. Phase 2 of the process is a 60-day review period, but they experienced a delay due to the nationwide shelter-in-place ordinances.

Mr. Fidelie expressed the Board's appreciation for their efforts to revitalize downtown Wichita Falls. There being no further discussion, he closed the public hearing at 3:11 p.m.

6. Public hearing regarding a funding request from the Museum of North Texas History related to their forthcoming efforts to inventory and preserve the contents of the former Railroad Museum downtown.

Mr. Fidelie opened the public hearing at 3:11 p.m. Mr. Menzies said the City owns the building and land at 500 9th Street. For years, the not-for-profit Railroad Museum occupied the facility. In December 2020, the Museum terminated its lease and vacated the facility, leaving all inventory in the building. They did not, however, leave any records. The Museum of North Texas History is interested in doing inventory work on the contents. The City and Museum signed an access agreement allowing the Museum use of the facility for 12 months to do this work. The request before the Board is from the Museum and the City for an amount up to \$7,500 to pay the utility and solid waste costs not currently budgeted.

Madeleine Calcote, executive director of the Museum of North Texas History, 4100 Weeks Park Lane, Wichita Falls. She said the Museum had already started on the inventory. There are about 17 rolling stock cars and smaller items on the premises. She is asking the City to provide electricity, water, and trash service.

Mr. Clark said he is very pleased the Museum has gotten involved, as this deserves attention. He asked if this is an eligible cost. City Attorney Kinley Hegglund replied affirmatively, referencing Section 505.152 of the Texas Local Government Code.

There being no further discussion, Mr. Fidelie closed the public hearing at 3:16 p.m.

7. Staff report regarding the operations of the Corporation-owned Lindeman Parking Garage at 7th Street/Indiana Street downtown.

Jana Schmader said Downtown Wichita Falls Development is reinstating the Art Walk, to be held March 4. They want to put art and music in various places. The request before the Board is to place a single musician on the first floor of the Lindeman Parking Garage. Mr. Menzies added that if the Board approves of the request, staff has prepared a draft agreement available for signature today.

Property Administrator Pat Hoffman said there are still only two tenants in the garage, and no inquiries to lease the property. Staff checks all floors daily. Police officers patrol it on a regular basis.

Mr. Leiker noted that the Council has expressed interest in the Board's planned use of this facility, and encouraged that it be used more. From staff's perspective, the garage is in a holding pattern at present. A developer had shown interest in the beginning, but did not follow through for various reasons. The spaces were put out for bid, but there is not yet sufficient demand for businesses in the area to want to pay for parking. The Board has discussed whether to open the garage up as free parking for events such as the Art Walk, or to charge a nominal fee. The Board was not interested in turning it into a profit center, but would like to defray operational costs.

Mr. Hatcher noted there had been a Facebook 'uprising' about the \$25,000 annual budgeted amount for the upkeep of the garage. The actual amount spent year to date is \$1,071. The Board does feel it should try to break even as much as possible. Mr. Leiker opined that if the City were to construct such a facility, it would cost many millions of dollars. This is a real gift; it may not be needed today, but will be hopefully in a few years.

8. Staff report regarding Type B Corporation eligible projects pursuant to Texas statute.

Mr. Menzies said the issue regarding eligible 4B projects, particularly in the downtown area, had been discussed over the last few months. He distributed a map of the downtown area comprising the Central Business District (CBD). This district is an actual zoning area, and has had the same configuration since the inception of zoning in Wichita Falls in 1985.

About 30 years later, the discussion of areas eligible for economic development funding was based on the 2008 comprehensive Freese & Nichols study for 2020. The area bounded by 6th/Ohio/11th/Travis was determined to be the area within which to focus public investment. The Board decided to use the CBD boundaries as its boundary for investment.

The most recent Freese & Nichols study (from 2017-18), adopted as part of the Council's downtown plan, is in the implementation stage now. It talks about the core downtown area being even smaller than in the previous study – 7th/Ohio/11th/Scott.

The question has come up regarding the possibility of expanding the 4B eligible area. Legal analysis will be provided in executive session.

9. Executive Session.

Mr. Fidelie adjourned the meeting into executive session at 3:35 p.m. pursuant to Texas Government Code section 551.087. He announced the meeting back into regular session at 4:54 p.m. The subjects posted in the Notice of Meeting were deliberated, and no votes or further action was taken on these items in executive session.

10. Motions

Half Pint III LLC's request for extension to existing funding agreement to renovate the building at 809 Ohio

Mr. Leiker moved to extend the performance agreement between the 4BSTC and Half Pint III LLC to October 1, 2021. Seconded by Mr. Hatcher, the motion carried 6-0.

Anchored DT LLC's request for extension to existing funding agreement to renovate the building at 620 Ohio

Mr. Leiker moved to extend the performance agreement between the 4BSTC and Anchored DT LLC to August 1, 2021. Seconded by Mr. Clark, the motion carried 6-0.

Museum of North Texas History's request regarding efforts to inventory contents of the former Railroad Museum

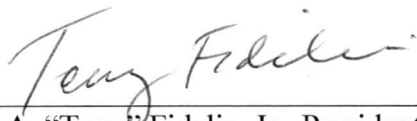
Mr. Clark moved to award up to \$7,500 to the Museum of North Texas History for the costs of items listed in the agenda. Seconded by Mr. Hatcher, the motion carried 6-0. Mr. Menzies noted the utility bills will come directly to the City and will be paid with 4B funds.

Request by DWFD regarding use of the Lindeman Parking garage

Mr. Fidelie moved to enter into an agreement with DWFD for use of the Lindeman parking garage on March 4 and 5 under terms stated in the draft agreement. Further, he moved to permit individuals to park free of charge in the garage during the Art Walk event. He directed that staff and DWFD work to have similar terms for future downtown events. Seconded by Mr. Leiker, the motion carried 6-0.

11. Adjourn.

The meeting adjourned at 4:59 p.m.


Guy A. "Tony" Fidelie, Jr., President

MINUTES
LAKE WICHITA REVITALIZATION COMMITTEE
March 9, 2021

PRESENT:

David Coleman, Chair
Tim Brewer, City Council Rep
Sharon Roach
Eve Montgomery
Crystal Byrd
Jeremy Garza
Matt Marrs

■ Members

Blake Jurecek, Assistant City Manager
Russell Schreiber, Public Works Director
Vikesh Desai, Engineering

■ Staff

■ Guests

ABSENT: Eric Stevens, Pete Gill, Alicia Castillo, Steve Garner, Kendrick Jones, Ford Swanson

1. **Call to Order:** David called the meeting to order at 10:04 am and declared a quorum.
2. **Approval of Minutes:** February meeting minutes were approved unanimously.
3. **Election of Officers:** Tabled.
- 4.a. **Veteran's Plaza Project:** With the design complete, the focus has turned to fundraising.
- 4.b. **Medal of Honor Statue Consideration**

David stated that a sculptor named Dan Brook contacted him regarding the possible placement of a bronze statue of John R Kane, a Medal of Honor recipient who was raised in Wichita Falls. The Committee clearly will not entertain changes to the existing design, but might consider something like this in the future. It was suggested to contact Bob Hampton and Joel Jiminez to learn more about local history, and find out if other WF residents have received a Medal of Honor. Another suggestion was to possibly place the Kane statue at Base Camp Lindsey.

4.c. **Lake Deepening Alternatives**

David stated he received the information to calculate what percentage of lake bed materials would be removed if Compressed Earth Blocks were used for the two new high schools, and based on those numbers only 0.06% would be removed. This amount would be like the volume of a small swimming pool, but would fill back in quickly.

March 9, 2021

5. Discussion of Brick Sales and Fundraising Initiatives:

David will update Mac Cannedy to see if the Bridwell Foundation or other foundations that he manages would be interested in supporting the Veterans Plaza, and will also update Harry Patterson to ensure he knows the status and is still on board.

David asked Blake about the possibility of requesting funds for the Veterans Plaza from the 4B Board. After some discussion, the consensus is that we must exhaust all other possible funding sources before asking the 4B Board. Russell asked about the Gold Star Family Foundation fundraising, and David stated he will contact their POC.

6. Other Business Matters:

The new Intern, Kimberly Paris, should be processed through the City's HR Dept, and David will contact Brian Lester at 940.761-7619

David urged all members to complete their ORA and OMA training.

7. Adjournment: The meeting adjourned at 10:28 am.



David Coleman, Chair

13 April 2021
Date

CITY COUNCIL AGENDA
April 20, 2021

ITEM/SUBJECT: Ordinance making an appropriation to the Special Revenue Fund for Public Health Emergency Preparedness Cooperative Grant in the amount of \$60,000. Received from the Department of State Health Services and authorizing the City Manager to execute contract accepting same.

INITIATING DEPT: Health

STRATEGIC GOAL: Efficiently Deliver City Services

STRATEGIC OBJECTIVE: Practice Effective Governance

COMMENTARY: Approval of this ordinance will appropriate \$60,000 in funding from the Department of State Health Services. It is intended to support the counties of Archer, Baylor, Clay, Cottle, Foard, Hardeman, Jack, Knox, Throckmorton, Young, Montague, Wichita, and Wilbarger in the support of Strategic National Stockpile planning and preparedness. The grant also includes one .5 FTE. There is no match associated with this grant award.

Staff recommends approval of the ordinance.

☒ **Director of Health**

ASSOCIATED INFORMATION: Ordinance

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

Ordinance No. _____

Ordinance making an appropriation to the Special Revenue Fund for Public Health Emergency Preparedness Cooperative Grant in the amount of \$60,000. Received from the Department of State Health Services and authorizing the City Manager to execute contract accepting same

WHEREAS, the Health District and the Department of State Health Services desire to enter into a contract for continued public health services; and,

WHEREAS, approval of these funds could not have been anticipated prior to the adoption of the 2020 - 2021 budget.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

There is hereby appropriated in the Special Revenue Fund \$60,000 for the Emergency Preparedness program, and the City Manager is authorized to enter into a contract with the Department of State Health Services for the Wichita Falls-Wichita County Health District.

PASSED AND APPROVED this the 20th day of April, 2021.

MAYOR

ATTEST:

City Clerk

CITY COUNCIL AGENDA
April 20, 2021

ITEM/SUBJECT: Ordinance amending City Ordinance ARTICLE VII. – REGULATIONS FOR DISPOSAL OF INDUSTRIAL WASTEWATER to incorporate revisions concerning a Texas Commission on Environmental Quality (TCEQ) Industrial Pretreatment Audit.

INITIATING DEPT: Public Works

STRATEGIC GOAL: Efficiently Deliver City Services

STRATEGIC OBJECTIVE: Practice Effective Governance

COMMENTARY: The City's Industrial Pretreatment program was approved by TCEQ on December 23, 1983 after ARTICLE VII. – REGULATIONS FOR DISPOSAL OF INDUSTRIAL WASTEWATER was adopted by City Council. Over the years TCEQ has required amendments to ARTICLE VII. based on new rules, audits, and regulations that have been adopted by TCEQ. The adoption of new rules by TCEQ required ARTICLE VII. to be amended and then adopted by City Council. The most recent amendment and approval of ARTICLE VII by City Council occurred September 2020 (Ordinance 20-2020).

On March 22 – 26, 2021 TCEQ performed an audit of the Pretreatment Program. Upon review of the TCEQ approved Ordinance 20-2020 they found an issue with two dates in Section 106-884(a) that needed to be corrected. The TCEQ noted these dates as a Required Modification to the Pretreatment Program on the report for the audit during the exit interview on March 26, 2021.

Section 106-884(a) of ordinance 20-2020 stated;

“Any industrial user subject to a categorical standard, after the compliance date of such pretreatment standard or, for a new source, after commencement of the discharge into the publicly owned treatment works, shall submit a report to the Control Authority during the months of June and December, unless required more frequently in the pretreatment standard or by the Control Authority, the Environmental Protection Agency, or the approval authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical pretreatment standards.”

TCEQ is requiring the underlined changes below to Section 106-884(a);

“Any industrial user subject to a categorical standard, after the compliance date of such pretreatment standard or, for a new source, after commencement of the discharge into the publicly owned treatment works, shall submit a report to the Control Authority on or before July 30th and January 30th, unless required more frequently in the pretreatment standard or by the Control Authority, the Environmental Protection Agency, or the approval authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical pretreatment standards.”

To achieve compliance with the TCEQ requirements concerning the Industrial Pretreatment audit the changes to ARTICLE VII. – REGULATIONS FOR DISPOSAL OF INDUSTRIAL WASTEWATER must be adopted by City Council.

Staff recommends approval of the ordinance.

☒ Director, Public Works

ASSOCIATED INFORMATION: Ordinance

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

Ordinance No. _____

Ordinance amending City Ordinance ARTICLE VII. – REGULATIONS FOR DISPOSAL OF INDUSTRIAL WASTEWATER to incorporate revisions concerning a Texas Commission on Environmental Quality (TCEQ) Industrial Pretreatment Audit

WHEREAS, the City of Wichita Falls desires to incorporate required modifications requested by the Texas Commission on Environmental Quality (TCEQ) during an audit of the Pretreatment Program on March 22- 26, 2021.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

SECTION 1. Chapter 106 at Article VII of the Code of Ordinances of the City of Wichita Falls, Texas is hereby amended in its entirety to read as follows:

**ARTICLE VII. - REGULATIONS FOR DISPOSAL OF INDUSTRIAL WASTEWATER
DIVISION 1. - GENERALLY**

Sec. 106-566. - Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 USC 1251 et seq., as amended.

Administrative Order means a legal, independently enforceable order issued directly by the Control Authority. The order defines the violation, provides evidence of the violation, and requires the recipient to take corrective action within a specified time period. If the recipient violates the order the Control Authority may take further legal action using additional orders (or the court system) to force compliance with the order directly.

Administrator means the administrator of the United States Environmental Protection Agency and/or the agency for the state that has authority to administer the program.

Approval authority means the executive director of the state agency that has authority to administer the program.

Authorized or duly authorized representative of the user means:

(1) If the user is a corporation:

- a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- b. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or

implicit duty of making major capital investments recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanisms requirements; and where if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (2) If the user is a partnership or sole proprietorship, a general partner or proprietor, respectively.
- (3) If the user is a federal, state, or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) (A duly authorized representative of the individual designated in paragraph 1) or 2) of this section if:
 - a. The authorization is made in writing by the individual described in paragraph (1) or (2);
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - c. The written authorization is submitted to the Control Authority.
- (5) If an authorization under paragraph (4) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (4) of this section must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.

Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Biochemical oxygen demand or BOD means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Celsius, usually expressed as a concentration (e.g., mg/l).

Bypass means an intentional diversion of waste streams from any portion of an industrial user's treatment facility.

Categorical pretreatment standards means any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency in accordance with section 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR 405—471.

Categorical Industrial user an Industrial User subject to a categorical Pretreatment Standard or Categorical Standard.

Cease and Desist Order is an order issued by the Control Authority proscribing a User from continuing a particular course of conduct.

Chemical oxygen demand or *COD* means the measure of the oxygen-consuming capacity of inorganic and organic matter present in the water or wastewater expressed in milligrams per liter (mg/l) as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

City means the City of Wichita Falls, Texas, or any authorized person acting in its behalf.

Closed-cup flashpoint means a measure of the characteristic of the ignitability of a material using the test methods specified in 40 CFR 261.21.

Composite sample means the sample resulting from the combination of individual samples taken at selected intervals based on an increment of either flow or time, as per the procedure described in 40 CFR 403, appendix E(I).

Control Authority means the Utilities Operations Manager of the Public Works Department or another official designated by the city manager or his duly authorized deputy, agent or representative.

Control manhole means a point of access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

Control point means a point of access to a course of discharge before the discharge mixes with other discharges in the public sewer, also known as an inspection port and/or control manhole.

Daily Maximum Limit means the maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Domestic sewage means wastewater normally discharged dwellings, including apartments, houses and hotels; office buildings; factories; and institutions, free from stormwater, surface water and industrial wastes.

EPA means the U.S. Environmental Protection Agency, or, where appropriate, the term may also be used as a designation for other duly authorized officials, including authorized contractors acting as representatives, of said agency.

Existing source means any source of discharge, the construction or operation of which commenced prior to the publication by the Environmental Protection Agency of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Act.

Fats means primarily fatty acid esters of the alcohol glycerol, also called acylglycerols, neutral fats, natural fats, or glycerides. They are the major components of depot, or storage, fats in plant and animal cells, especially in the adipose or fat cells of vertebrates. The term "fats" may include any synthesized substance of a like nature.

Garbage means animal and vegetable wastes and residue from preparation, cooking and dispensing of food and from the handling, processing, storage and sale of food products and produce.

Grab sample means a sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes, as per the procedure described in 40 CFR 403, appendix E(II).

Grease means fats, waxes, free fatty acids, calcium and magnesium soaps, mineral oils and certain other nonfatty material commonly found in wastewater.

Grease trap/interceptor means a water-tight receptacle designed and constructed to intercept and prevent the passage of grease, greasy and/or fatty liquids, semi-solids, and/or solid wastes generated from commercial operations into the sanitary sewer system to which the receptacle is directly or indirectly connected.

Hazardous substance means any substance designated pursuant to 40 CFR 302.

Hazardous waste means as provided in 40 CFR 261.3.

Indirect discharge and *discharge* mean the introduction of pollutants into a publicly owned treatment works from any non-domestic source regulated under section 307(b), (c) or (d) of the Act.

Industrial user and *user* mean a source of indirect discharge.

Industrial waste means waste resulting from any process of industry, manufacturing, trade or business; from development of any natural resource; from any mixture of the waste with water or normal wastewater; and wastewater containing pollutants in higher concentrations than normal domestic sewage as defined in this section.

Instantaneous Limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the publicly owned treatment works, its treatment processes or operations or its sludge processes, use or disposal and, therefore, is a cause of a violation of any requirement of the city's Texas Pollutant Discharge Elimination System permit, including an increase in the magnitude or duration of a violation, or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued there under or any more stringent state or local regulations: section 405 of the Act; the Solid Waste Disposal Act (SWDA), including title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the Solid Waste Disposal Act; the Clean Air Act;

the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Local Limits means specific prohibitions or limits on pollutants or pollutant parameters that are developed by a POTW in accordance with 40 CFR 403.5(c). Such limits shall be deemed Pretreatment Standards for the purposes of section 307(d) of the Act.

Lower explosive limit (LEL) of a compound means the minimum concentration of that compound, as a gas or vapor in air, which will explode or burn in the presence of an ignition source.

May. The term "may" is permissive or discretionary.

Milligrams per liter (mg/l) means the same as parts per million and is a weight-to-volume ratio. The milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

Monthly Average Limit means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

National Pollutant Discharge Elimination System (NPDES) means the National Pollutant Discharge Elimination System permits program as administered by a state or interstate water pollution control agency as approved pursuant to section 402(b) of the Act.

New source means:

- (1) Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - a. The building, structure, facility, or installation is constructed at a site at which no other source is located;
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1)b or

(1)c of this definition but otherwise alters, replaces, or adds to the existing process or production equipment.

(3) Construction of a new source has commenced if the owner or operator has:

- a. Begun, or caused to begin, as part of a continuous on-site construction program, any placement, assembly, or installation of facilities or equipment or significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

No measurable trace means a measurement of a parameter that is less than the detection limit of the appropriate analytic technique approved by the Environmental Protection Agency.

Non-contact cooling water means water used for cooling which does not come into contact with any raw material, intermediate product, waste product or finished product.

Oils means those fats that are liquid at ordinary temperatures.

Other waste means decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals, and all other substances except sewage and industrial wastes.

User means the person using the lot, parcel of land, building or premises connected to sewage, industrial wastewater of the city, and who pays or is legally responsible for the payment of water rates or charges made against the lot, parcel of land, building or premises, if connected to the city's water distribution system, or who would pay or be legally responsible for such payment if so connected.

Pass through means a discharge which exits the publicly owned treatment works into the waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the publicly owned treatment works' Texas Pollutant Discharge Elimination System permit, including an increase in the magnitude or duration of a violation.

Person means any individual, consortium, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, joint venture, commercial entity, governmental entity, or any other legal entity or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities including the United States government or any state, municipality, commission, political subdivision of a state or interstate body.

pH means a measure of the acidity or alkalinity of a material, liquid or solid, expressed in standard units, specifically the negative logarithm of the hydrogen ion concentration

represented on a scale of 0 to 14 with 7 being a neutral state, 0 most acidic and 14 most alkaline.

Point source means any discernable, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. The term "point source" does not include agricultural stormwater discharges and return flows from irrigated agriculture.

Pollutant means dredged spoil; solid waste; incinerator residue; filter backwash; sewage; garbage; sewage sludge; munitions; medical wastes; chemical wastes; biological materials; radioactive materials except as regulated under the Atomic Energy Act of 1954, as amended (42 USC 2011 et seq.); heat; wrecked or discarded equipment; rock; sand; cellar dirt; municipal, agricultural and industrial wastes; and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

Pollution prevention (P2) means the use of materials, processes, or practices that reduce or eliminate the creation of pollutants or wastes at the source. It includes, but is not limited to, practices that reduce the use of hazardous and nonhazardous materials, energy, water, or other resources as well as those that protect natural resources through conservation or more efficient use.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the publicly owned treatment works. This reduction or alteration can be obtained by physical, chemical, or biological processes, except as prohibited by 40 CFR 403.6(d); by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

Pretreatment standards and *standards* mean prohibited discharge standards, categorical pretreatment standards, and local limits.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

Prohibited discharge standards and *prohibited discharges* mean absolute prohibitions against the discharge of certain substances; these prohibitions appear in sections 106-816 and 106-817.

Publicly owned treatment works (POTW) and *wastewater system* mean a treatment works as defined by section 212 of the Act, which is owned by a state or municipality, as defined by section 504(4) of the Act. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a publicly owned treatment works. The term also

includes the municipality as defined in section 504(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

Removal means a reduction in the amount of a pollutant or alteration of the nature of a pollutant during pretreatment or treatment. The reduction or alteration may be obtained by physical, chemical or biological means and may be the result of specifically designed capabilities or may be incidental to the operation of the pretreatment or treatment system. Removal does not mean dilution of a pollutant.

Reportable slug load means either of the following:

- (1) Any release into the publicly owned treatment works over a 24-hour period which meets any of the following criteria:
 - a. A reportable quantity of a hazardous material, as defined under section 311 of the CWA, section 102(b) of the CERCLA, and 40 CFR 302.4.
 - b. Ten pounds or more of heavy metals, including arsenic, cadmium, chromium, copper, lead, mercury, nickel, silver, and zinc; or cyanide in solution.
 - c. One gallon or more of any toxic substance listed in this ordinance.
 - d. All flammable liquids in quantities of more than one gallon.
 - e. Any other liquid material determined to have adverse effects on the publicly owned treatment works, including but not limited to alkalies or alkaline substances, oils, foam generating wastes, highly colored wastes, pesticides, organics, vegetable matter, and solvents not listed previously.
- (2) Any discharge of water or wastewater with a concentration of any given constituent or a quantity of flow for any period longer than 15 minutes more than five times the average 24-hour concentration or flow of normal operations of the user shall also be considered a slug load.

Sewage means human excrement and gray water (household showers, dishwashing operations, etc.).

Shall is mandatory.

Significant industrial user means:

- (1) Any user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; or
- (2) A user that:
 - a. Discharges an average of 25,000 gpd or more of process wastewater to the publicly owned treatment works, excluding sanitary, noncontact cooling, and boiler blowdown wastewater;
 - b. Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the publicly owned treatment works treatment plant; or
 - c. Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the publicly owned treatment works' operation or for

violating any pretreatment standard or requirement, in accordance with 40 CFR 403.8(f)(6).

- (3) Upon a finding that a user meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Slug, slug discharge and slug load mean any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in this ordinance. A slug discharge is any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or noncustomary batch discharge, which has a reasonable potential to cause interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

Standard Industrial Classification Code (SIC) means the uniform method for collecting and presenting business data devised by the U.S. Office of Management and Budget. Each business is given a SIC code based upon its primary activity, which is determined by its predominant business or service. For the purposes of this ordinance, the SIC code of a business is the first four digits of the SIC number of that business as found in the most current edition of the Standard Industrial Classification Manual.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting from such precipitation, including snowmelt.

Suspended solids and total suspended solids mean the total suspended matter that floats on the surface of or is suspended in water, wastewater, or other liquids, which is removable by laboratory filtering using the method for determining nonfilterable residue in 40 CFR 136.3.

Suspension Order means an order issued to a User by the Control Authority requiring the immediate suspension of all specified discharges to the POTW. It may be issued without prior notice to the User and without a prior hearing.

Total toxic organics (TTO) means the summation of all quantifiable values greater than 0.01 milligrams per liter for all toxic organics listed under 40 CFR 413.02(i) and 40 CFR 433.11(e).

Toxic pollutant means any pollutant designated as toxic pursuant to section 307(a)(1) of the Act and listed in 40 CFR 401.15.

TPDES means Texas Pollutant Discharge Elimination System permits program as administered by a state water pollution control agency as approved pursuant to section 402(b) of the Act.

Upset: See section 106-961.

Wastewater means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW

Wastewater discharge permit means a mechanism used to control the discharge of wastewater to the POTW from an industrial user in order to:

- (1) Ensure compliance with applicable pretreatment standards and requirements;
- (2) Regulate continuing use of the sanitary sewer system; and
- (3) Place conditions on the discharge.

Wastewater treatment plant and *treatment plant* means that portion of the publicly owned treatment works which is designed to provide treatment of municipal sewage and industrial waste.

Sec. 106-567. - Abbreviations.

The following abbreviations, when used in this ordinance, shall have the designated meanings:

| | |
|--------|--|
| BOD | Biochemical oxygen demand |
| BMP | Best Management Practice |
| BMR | Baseline Monitoring Report |
| CERCLA | Comprehensive Environmental Response, Compensation and Liability Act |
| CFR | Code of Federal Regulations |
| COD | Chemical oxygen demand |
| CWA | Clean Water Act |
| EPA | U.S. Environmental Protection Agency |
| FOG | Fats, oils, and grease |
| gpd | Gallons per day |
| IU | Industrial User |
| mg/l | Milligrams per liter |
| NPDES | National Pollutant Discharge Elimination System |
| O&M | Operation and maintenance |
| P2 | Pollution Prevention |
| pH | Potential Hydrogen Ion Concentration |
| POTW | Publicly owned treatment works |

| | |
|-------|--|
| RCRA | Resource Conservation and Recovery Act |
| SIC | Standard industrial classification |
| SIU | Significant Industrial User |
| SNC | Significant Noncompliance |
| SWDA | Solid Waste Disposal Act |
| TPDES | Texas Pollutant Discharge Elimination System |
| TRC | Technical review criteria |
| TSS | Total suspended solids |
| USC | United States Code |

Sec. 106-568. - Purpose and policy.

- (a) This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Wichita Falls and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 (33 USC 1251 et seq.) and the general pretreatment regulations (40 CFR 403). The objectives of this ordinance are to:
- (1) Prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
 - (2) Prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, or otherwise be incompatible with the system;
 - (3) Improve the opportunity to recycle and reclaim wastewaters and sludges from the system;
 - (4) Provide for fees for the equitable distribution of the cost of the operation, maintenance and improvement of the municipal wastewater system;
 - (5) Protect the health and safety of wastewater treatment and wastewater collection personnel as well as the general public;
 - (6) Enable the municipal wastewater system to comply with Texas Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws; and
 - (7) To reduce the operational and maintenance costs of maintaining the sewer system by preventing the accumulation of grease, oil, and residue within the sewage system lines; and

- (8) To ensure the quality of sludge to allow its use and disposal in compliance with all applicable statutes and requirements.
- (b) This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for the other users, requires user reporting, assumes that an existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this ordinance.
- (c) This ordinance shall apply to the city and to persons outside the city who are, by contract or agreement with the city, users of the city's publicly owned treatment works (POTW).

Sec. 106-569. - Confidential information.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs and from the Control Authority's inspection and sampling activities and any other information submitted to the Control Authority pursuant to this ordinance shall be available to the public without restriction, at least to the extent provided by 40 CFR 2.302, unless the user specifically requests and is able to demonstrate to the satisfaction of the Control Authority that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable federal, state, or local law. Any such request must be asserted at the time of submission in the manner prescribed on the application form or instructions or, for other submissions, by stamping the words "confidential business information" on each page containing such information. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public and shall be treated in accordance with the procedures in 40 CFR 2 (Public Information), but shall be made available immediately upon request to governmental agencies for uses related to the National Pollutant Discharge Elimination System program or pretreatment program, and in enforcement proceedings involving the person providing the report, unless so prohibited by 40 CFR 2 (Public Information). Wastewater constituents and characteristics and other effluent data as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Secs.106-570—106-595. Reserved.

DIVISION 2.-ADMINISTRATION AND ENFORCEMENT

Subdivision I. - In General

Sec. 106-596. - Administration.

Except as otherwise provided in this ordinance, the Utilities Operations Manager / Control Authority or the Environmental Coordinator of the Public Works Department under the authority and supervision of the city manager shall administer, implement, and enforce this division. Any powers granted to or duties imposed upon the Utilities Operations Manager / Control Authority or the Environmental Coordinator of the Public Works

Department may be delegated by the Utilities Operations Manager / Control Authority or the Environmental Coordinator of the Public Works Department to other city personnel.

Sec. 106-597. - Public participation in enforcement.

The Control Authority shall comply with the public participation requirements of 40 CFR 25 in the enforcement of national pretreatment standards. As a provision of such, the Control Authority shall make at least annual public notification, in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW of Industrial Users which, at any time in the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. For the purpose of this section, a Significant Industrial User (or any Industrial User which violates paragraphs 3,4,7 or 8 of this section) is in significant noncompliance if its violation meets one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all measurements taken during a six-month period exceed a numeric pretreatment standard or requirement, including instantaneous limits for the same pollutant parameter by any amount;
- (2) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equals or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other Discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days after the scheduled date, a compliance schedule date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or

- (8) Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local Pretreatment Program.

Sec. 106-598. - Water supply severance.

Whenever a user has violated or continues to violate any section of this ordinance or a provision of an individual wastewater discharge permit or order issued under this ordinance or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

Sec. 106-599. - Public nuisances.

A violation of any section of this ordinance or a provision of an individual wastewater discharge permit or order issued under this ordinance or any other pretreatment standard or requirement is declared a public nuisance and shall be corrected or abated as directed by the Control Authority. Any person creating a public nuisance shall be subject to the sections of this Code governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying the nuisance.

Secs. 106-600—106-613. - Reserved.

Subdivision II. - Supplemental Enforcement Action

Sec. 106-614. - Water supply severance.

Whenever a user has violated or continues to violate any section of this ordinance or a provision of a wastewater discharge permit or order issued under this ordinance or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

Sec. 106-615. - Public nuisances.

A violation of any section of this ordinance or a provision of a wastewater discharge permit or order issued under this ordinance or any other pretreatment standard or requirement is declared a public nuisance and shall be corrected or abated as directed by the Control Authority. Any person creating a public nuisance shall be subject to the sections of this Code governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying the nuisance.

Secs. 106-616—106-625. - Reserved.

Subdivision III. - Administrative Enforcement

Sec. 106-626. - Authority of Control Authority.

The Control Authority may issue orders without notice or opportunity for prior hearing, requiring compliance with standards developed under the authority of the act under 40 CFR 403.8(f)(1)(iii).

Sec. 106-627. - Notification of violation.

When the Control Authority finds that a user has violated or continues to violate any section of this ordinance, a wastewater discharge permit or order issued under this

ordinance or any other pretreatment standard or requirement, the Control Authority may serve upon that user a written notice of violation. Within 14 days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Control Authority. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this subdivision shall limit the authority of the Control Authority to take any action, including emergency action, without first issuing a notice of violation.

Sec. 106-628. - Consent orders.

The Control Authority is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance with this ordinance. Such documents will include the specific action to be taken by the user to correct the noncompliance within a time period also specified by the document. Such document shall have the same force and effect as the administrative orders issued pursuant to sections 106-630 and 106-631 and shall be judicially enforceable.

Sec. 106-629. - Show cause hearing.

The Control Authority may order a user which has violated or continues to violate any section of this ordinance, a wastewater discharge permit or order issued under this ordinance or any other pretreatment standard or requirement to appear before the Control Authority and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail, return receipt requested, at least ten days prior to the hearing. Such notice may be served on any authorized representative of the user. A show of cause hearing shall not be a bar against or prerequisite for taking any other action against the user. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued. Since the user will have already been in SNC to necessitate the show cause hearing, any action taken as a result of the hearing shall be in addition to any penalties levied for the SNC.

Sec. 106-630. - Compliance orders.

When the Control Authority finds that a user has violated or continues to violate any section of this ordinance, a wastewater discharge permit or order issued under this ordinance or any other pretreatment standard or requirement, the Control Authority may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer and/or water service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order

relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against or a prerequisite for taking any other action against the user.

Sec. 106-631. - Cease and desist orders.

- (a) When the Control Authority finds that a user has violated or continues to violate any section of this ordinance, a wastewater discharge permit or order issued under this ordinance or any other pretreatment standard or requirement or that the user's past violations are likely to recur, the Control Authority may issue an order to the user directing it to cease and desist all such violations and directing the user to:
 - (1) Immediately comply with all requirements; and
 - (2) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
- (b) Issuance of a cease and desist order shall not be a bar against or a prerequisite for taking any other action against the user.

Sec. 106-632. - Administrative fines.

- (a) When the Control Authority finds that a user has violated or continues to violate any section of this ordinance, a wastewater discharge permit or order issued under this ordinance or any other pretreatment standard or requirement, the Control Authority may fine such a user in an amount not to exceed \$2,000.00. Such fine shall be assessed on a per-violation, per-day basis. For monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. Such assessments may be added to the user's next scheduled sewer service charge, and the Control Authority shall have such other collection remedies as he has to collect other service charges.
- (b) Unpaid charges, fines, and penalties shall, after 14 calendar days, be assessed an additional penalty of ten percent of the unpaid balance, and interest shall accrue thereafter at a rate of one percent per month for every month unpaid up to a maximum of ten percent per month.
- (c) A user desiring to dispute such fine must file a written request for the Control Authority to reconsider the fine along with full payment of the fine amount within ten days of being notified of the fine. When the Control Authority believes a request has merit, the Control Authority may convene a hearing on the matter within 15 days of receiving a request from the user. If the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Control Authority may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- (d) Issuance of an administrative fine shall not be a bar against or a prerequisite for taking any other action against the user.

Sec. 106-633. - Emergency suspensions.

- (a) The Control Authority may immediately suspend a user's discharge and/or water service, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Control Authority may also immediately suspend a user's discharge and/or water service, after notice and opportunity to respond, that threatens to interfere with operation of the publicly owned treatment works or which presents, or may present, an endangerment to the environment.
- (b) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. If a user fails to immediately comply voluntarily with the suspension order, the Control Authority may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the publicly owned treatment works, its receiving stream, or endangerment to any individuals. The Control Authority may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Control Authority that the period of endangerment has passed, unless the termination proceedings in section 106-634 are initiated against the user.
- (c) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Control Authority prior to the date of any show cause or termination hearing under section 106-629 or 106-634.
- (d) Nothing in this subdivision shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

Sec. 106-634. - Termination of discharge.

- (a) In addition to section 106-765, any user who violates the following conditions is subject to discharge termination:
 - (1) Violation of wastewater discharge permit conditions;
 - (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
 - (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
 - (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, sampling or industry categorization verification;
 - (5) Violation of the pretreatment standards in subdivision II of division 4 of this ordinance;
 - (6) Violation of any applicable state or federal law; or
 - (7) Tampering with sampling equipment, sampling lines, or otherwise interfering with sampling or samples collected for the purpose of influencing or manipulating sample test results.

- (b) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 106-629 why the proposed action should not be taken. Exercise of this option by the Control Authority shall not be a bar to or a prerequisite for taking any other action against the user.

Sec. 106-635. - Liquidated damages.

- (a) Each wastewater discharge use permit issued to an industrial user, and as a condition of issuing such permit, shall contain the following:

"In the event that the Control Authority determines that any user is in violation of any provisions of Chapter 106, Ordinance VII of the Code of Ordinances of the City of Wichita Falls, Texas, its wastewater discharge permit, or orders issued hereunder, or any other pretreatment standard or requirement, the Control Authority shall notify the user of such violation and require the user to cure the violation within the time specified in the notice. The user shall respond in writing to the notice of violation within 10 business days from receipt of such notice, setting forth the steps taken to correct the violation. The Control Authority may extend the time for such response upon a showing of just cause by the user. If the Control Authority determines that the user is continuing the violation, the Control Authority may assess liquidated damages at a minimum of \$1,000.00 per violation, per day."

- (b) The user retains the right to seek review by the city council of any damages assessed under this section and the wastewater discharge permit.
- (c) Assessments may be added to the user's next scheduled sewer service charge, and the Control Authority shall have such other collection remedies as may be available for other service charges and fees.
- (d) Issuance of an assessment under this section shall not be a prerequisite for taking any other action against the user.

Secs. 106-636—106-660. - Reserved.

Subdivision IV. - Judicial Enforcement

Sec. 106-661. - Authority.

If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to this ordinance or any order or permit issued under this ordinance, the Control Authority, through the city attorney, may commence an action for appropriate legal and/or equitable relief in the municipal court for the city.

Sec. 106-662. - Injunctive relief.

When the Control Authority finds that a user has violated or continues to violate any section of this ordinance, a wastewater discharge permit, or order issued under this ordinance or any other pretreatment standard or requirement, the Control Authority may petition the courts through the city attorney for the issuance of a temporary, preliminary, and/or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user. The Control Authority may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the

user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against or a prerequisite of taking any other action against a user. The Control Authority shall have such remedies to collect these fees as it has to collect other sewer service charges.

Sec. 106-663. - Civil penalties.

- (a) A user who has violated or continues to violate any section of this ordinance, a wastewater discharge permit, or order issued under this ordinance or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of \$2,000.00 per violation per day plus actual damages incurred by the publicly owned treatment works. For a monthly or other long term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (b) The Control Authority may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.
- (c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- (d) Filing a suit for civil penalties shall not be a bar against or a prerequisite for taking any other action against a user.

Sec. 106-664. - Criminal prosecution.

- (a) For the purpose of this ordinance, the city shall enact all criminal authorities authorized under state law.
- (b) Any user that willfully or negligently violates any section of this ordinance, any orders or wastewater discharge permits issued under this ordinance or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$2,000.00 per violation, per day as provided in section 106-632.
- (c) Any user that knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed or required to be maintained pursuant to this ordinance, the wastewater discharge permit or an order or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine per violation.
- (d) The purpose of criminal prosecution is to punish noncompliance through court proceedings and to deter future noncompliance. The city will enforce compliance with all ordinances in municipal court and will seek the assistance of the district attorney and/or the U.S. Attorney's office to enforce state statutes and federal laws.

Sec. 106-665. - Remedies nonexclusive.

The remedies provided for in this ordinance are not exclusive. The Control Authority may take any, all, or any combination of the actions in this subdivision against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the Control Authority may take other action against any user when the circumstances warrant. Further, the Control Authority is empowered to take more than one enforcement action against any noncompliant user.

Secs. 106-666—106-690. - Reserved.

Subdivision V. - Affirmative Defenses to Discharge Violations

Sec. 106-691. - Act of God Affirmation Defense

If a person can establish that an event that would otherwise be a violation of this ordinance within the Control Authority's jurisdiction or an ordinance adopted or an order or a permit issued under such an ordinance was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of the ordinance or permit.

Sec. 106-692. - Prohibited discharge standards.

A user shall have an affirmative defense to an enforcement action brought against him for noncompliance with the general prohibitions in section 106-816 or the specific prohibitions in section 106-817 if the user can prove that he did not know or have reason to know that the discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to and during the pass through or interference; or
- (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its National Pollutant Discharge Elimination System permit and, in the case of interference, was in compliance with applicable sludge use or disposal requirements.

Sec. 106-693. - Bypass.

- (a) The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.

Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. The term "severe property damage" does not mean economic loss caused by delays in production.

- (b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure

efficient operation. These bypasses are not subject to subsections (c) and (d) of this section.

(c) Notice of bypass shall be given in accordance with the following:

- (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority, at least ten days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the Control Authority of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times; if the bypass has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(d) Enforcement action curtailments shall be as follows:

- (1) Bypass is prohibited, and the Control Authority may take an enforcement action against a user for a bypass, unless:
 - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - c. The user submitted notices as required under subsection (c) of this section.
- (2) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in subsection (d)(1) of this section.

Secs. 106-694—106-720. - Reserved.

Subdivision VI. - Compliance Monitoring

Sec. 106-721. - Inspection and sampling.

In accordance with 40 CFR 403.8(f)(2)(v), the Control Authority shall randomly inspect and sample each significant industrial user once a year in order to verify self-monitoring reports and other user-provided information. This section shall not preclude the Control Authority from sampling and/or inspecting significant industrial users more frequently or from sampling or inspecting any nonsignificant industrial user or any other user.

Sec. 106-722. - Right of entry.

- (a) The Control Authority and/or the approval authority shall have the right to enter the premises of any user, whether or not the user possesses a wastewater discharge permit, to determine whether the user is complying with all the requirements of this ordinance and any wastewater discharge permit or order issued under this ordinance. A user shall allow the Control Authority and/or the approval authority ready access to all parts of the premises for the purpose of sampling, records examination and copying, and the performance of any additional duties, including determination and verification of proper classification of the user as a categorical, noncategorical, significant, or nonsignificant industrial user.
- (b) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Control Authority and/or the approval authority will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (c) The Control Authority shall have the right to set up on the user's property or require installation of such devices as are necessary to conduct sampling and/or metering of the user's operations.
- (d) The Control Authority may require the user to install sampling equipment, monitoring equipment, metering equipment, and/or control manholes as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at his own expense. All devices used to measure wastewater flow and quality shall be calibrated at appropriate intervals to ensure their accuracy.
- (e) Any temporary or permanent obstruction, whether object, condition, or otherwise, to safe and easy access to the facility or the facility's control point shall be promptly removed by the user at the written or verbal request of the Control Authority and shall not be replaced. The costs of clearing such access shall be borne by the user.
- (f) Unreasonable delays in allowing the Control Authority and/or the approval authority access to the user's premises shall be a violation of this ordinance.
- (g) The right of access of the Control Authority and/or the approval authority shall extend to but not be limited to any premises where there is a discharge source or pretreatment system located or where records are required to be kept by this ordinance or under 40 CFR 403. To make a comprehensive determination of user's compliance status, the Control Authority and/or the approval authority shall have access to all areas of the facility, including but not limited to areas where chemicals and raw materials are stored. This right shall be considered at least as extensive as the authority provided under section 308 of the Act.
- (h) During the course of any visit, the Control Authority and/or the approval authority may document any part or process of the facility by written document, still photography, video, audio, or any other recording method deemed appropriate by the Control Authority and/or the approval authority. The user may use the procedures in section 106-569 to request that portions of the documentation be considered confidential information.

- (i) The user shall not deny access by the Control Authority and/or the approval authority to any area of the facility for any reason, including but not limited to proprietary processes, security clearance, safety concern, or personal privacy. Any necessary arrangements for access to all areas shall have been made by the user beforehand so that upon presentation of suitable identification, the Control Authority and/or the approval authority shall be permitted to enter any area of the facility without reasonable delay for the purposes of performing specific responsibilities. The failure of the user to make any such necessary arrangements shall not constitute a valid reason for the user to deny entrance by the Control Authority and/or the approval authority to any area of the facility.

Sec. 106-723. - Search warrants.

If the Control Authority and/or the approval authority has been refused access to a building, structure, or property or any part thereof and is able to demonstrate probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this ordinance or any permit or order issued under this ordinance or to protect the overall public health, safety and welfare of the community, the Control Authority may seek issuance of a search warrant.

Secs. 106-724—106-750. - Reserved.

DIVISION 3. - WASTEWATER DISCHARGE PERMIT

Sec. 106-751. - Denial or conditions of new or increased contributions.

The Control Authority may deny or condition new or increased contributions of pollutants or changes in the nature of pollutants to the publicly owned treatment works by industrial users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the publicly owned treatment works to violate its Texas Pollutant Discharge Elimination System permit.

Sec. 106-752. - Wastewater analysis.

When requested by the Control Authority, a user must submit information on the nature and characteristics of its wastewater within a reasonable time specified by the Control Authority. The Control Authority is authorized to prepare a form for this purpose and may periodically require users to update this information.

Sec. 106-753. - Requirements.

- (a) No significant industrial user shall discharge wastewater into the publicly owned treatment works without first obtaining a wastewater discharge permit from the Control Authority, except that a significant industrial user that has filed a timely application pursuant to section 106-754 or 106-755 may continue to discharge for the time period specified therein.
- (b) The Control Authority may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
- (c) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee

to the sanctions set out in sections 106-751—106-759 and sections 106-614 and 106-615 and subdivisions IV and V of division 2 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

Sec. 106-754. - Existing connections.

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the publicly owned treatment works prior to the effective date of the ordinance from which this section derives and who wishes to continue such discharges in the future shall, within 30 days after such date, apply to the Control Authority for a wastewater discharge permit in accordance with section 106-757 and shall not cause or allow discharges to the publicly owned treatment works to continue after 60 days of the effective date of the ordinance from which this section derives except in accordance with a wastewater discharge permit issued by the Control Authority. All users currently under a permit may continue to discharge wastewater for the duration of the permit with the provision that all prohibitions in this ordinance shall be considered to be in force at the effective date of the ordinance from which this ordinance derives.

Sec. 106-755. - New connections.

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the publicly owned treatment works must obtain such a permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with section 106-757, must be filed at least 60 days prior to the date upon which any discharge will begin or recommence.

Sec. 106-756. - Extrajurisdictional industrial users.

This ordinance shall apply to all persons outside the city who are, by contract or agreement with the city, users of the city's publicly owned treatment works, and thus such users may be required to obtain a wastewater discharge permit in accordance with all applicable sections of this division.

Sec. 106-757. - Application contents.

- (a) All users required to obtain a wastewater discharge permit must submit a permit application. The Control Authority may require all users to submit as part of an application the following information:
- (1) All information required by section 106-881(b);
 - (2) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are or could accidentally or intentionally be discharged to the publicly owned treatment works;
 - (3) Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - (4) Each product produced by type, amount, process and rate of production;
 - (5) Type and amount of raw materials processed (average and maximum per day);

- (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
 - (7) Time and duration of discharges; and
 - (8) The location for monitoring all wastes covered by the permit
 - (9) Flow Measurements Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary to allow use of the combined wastestream formula (40 CFR 403.6(e)).
 - (10) Measurement of Pollutants.
 - (i) The categorical Pretreatment Standards applicable to each regulated process and any new categorical regulated processes for Existing Sources
 - (ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Control Authority, of regulated pollutants in the discharge from each regulated process.
 - (iii) Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - (iv) The sample shall be representative of daily operations and shall be analyzed in the accordance with procedures set out in section 106-891 of this ordinance. Where alternative, the User shall submit documentation as required by the Control Authority or the applicable Standards to determine compliance with the Standard.
 - (v) Sampling must be performed in accordance with procedures set out in section 106-891 of this ordinance.
 - (11) Any other information as may be deemed necessary by the Control Authority to evaluate the wastewater discharge permit application.
- (b) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

Sec. 106-758. - Application signatories and certification.

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and shall contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirement of this section must be submitted to the Control Authority prior to or together with any reports to be signed by an Authorized Representative

Sec. 106-759. - Decisions.

The Control Authority will evaluate the data furnished in the application for a wastewater discharge permit by the user and may require additional information. Within 30 days of receipt of a complete wastewater discharge permit application, the Control Authority will determine whether or not to issue a wastewater discharge permit. The Control Authority may deny any application for a wastewater discharge permit.

Sec. 106-760. - Duration.

A wastewater discharge permit shall be issued for a period of less than five years from the effective date of the permit. Each wastewater discharge permit will indicate a specific date upon which it will expire.

Sec. 106-761. - Contents.

(a) A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Control Authority to:

- (1) Prevent pass through or interference;
- (2) Protect the quality of the water body receiving the treatment plant's effluent;
- (3) Protect worker health and safety;
- (4) Facilitate sludge management and disposal; and
- (5) Protect against damage to the publicly owned treatment works.

(b) Wastewater discharge permits must contain the following:

- (1) A statement that indicates wastewater discharge permit duration, for a period of less than five years, including the dates of issuance and expiration;
- (2) A statement that the wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the prior notification and approval of the Control Authority in accordance with section 106-764 and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit, all with the provision that the Control Authority may require a new wastewater discharge permit application be made in lieu of a permit being reassigned or transferred or sold;
- (3) Effluent limits, including, based on applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, Best Management Practices, and state and local law;
- (4) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants (or BMPs) to be monitored, sampling

location, sampling frequency, and sample type, based on the applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, and state and local law. Where the Control Authority has authorized alternate sampling (such as grab versus composite, or time proportional versus flow proportional composite sampling), alternate sampling protocols shall be specified in the permit; and

- (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.
 - (6) Requirements to control Slug Discharges, if determined by the Control Authority to be necessary.
- (c) Wastewater discharge permits may at the discretion of the Control Authority contain but not be limited to the following conditions:
- (1) Limits on the average and/or maximum rate of discharge, time of discharge and/or requirements for flow regulation and equalization.
 - (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
 - (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges.
 - (4) Development and implementation of waste minimization plans or pollution prevention (P2) programs to reduce the amount of pollutants discharged to the publicly owned treatment works.
 - (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the publicly owned treatment works.
 - (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment.
 - (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit.
 - (8) Any Best Management Practices required by the Control Authority.
 - (9) Other conditions as deemed appropriate by the Control Authority to ensure compliance with this ordinance and state and federal laws, rules, and regulations.

Sec. 106-762. - Appeals.

- (a) The Control Authority shall provide public notice of issuance of a wastewater discharge permit. Any person, including the user, may petition the Control Authority to

reconsider the terms of a wastewater discharge permit within 90 days of notice of its issuance.

- (b) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (c) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- (d) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- (e) If the Control Authority fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

Sec. 106-763. - Modification.

The Control Authority may modify a wastewater discharge permit for good cause, including but not limited to the following reasons:

- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
- (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the wastewater discharge permit issuance;
- (3) A change in the publicly owned treatment works that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to the city's publicly owned treatment works, city personnel, or the receiving waters;
- (5) Violation of any terms or conditions of the wastewater discharge permit;
- (6) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13; or
- (8) To correct typographical or other errors in the wastewater discharge permit.
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with section 106-764.

Sec. 106-764. - Transferability.

Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the Control Authority. Any succeeding owner or user shall also comply with the terms

and conditions of the existing permit. The Control Authority may require a new wastewater discharge permit application be made in lieu of a permit transfer.

Sec. 106-765. - Revocation.

- (a) The Control Authority may revoke a wastewater discharge permit for good cause, including but not limited to the following reasons:
- (1) Failure to notify the Control Authority of significant changes to the wastewater prior to the changed discharge;
 - (2) Failure to provide prior notification to the Control Authority and/or the POTW of changed conditions pursuant to section 106-885;
 - (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
 - (4) Falsifying self-monitoring reports and certification statements;
 - (5) Tampering with monitoring equipment section 106-886;
 - (6) Refusing to allow the Control Authority and/or approval authority timely access to the facility premises and records;
 - (7) Failure to meet effluent limitations;
 - (8) Failure to pay fines;
 - (9) Failure to pay sewer charges or surcharges;
 - (10) Failure to meet compliance schedules;
 - (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
 - (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
 - (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.
- (b) Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

Sec. 106-766. - Reissuance.

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with section 106-757, a minimum of 15 days prior to the expiration of the user's existing wastewater discharge permit.

Sec. 106-767. - Regulation of waste received from other jurisdictions.

- (a) If another municipality or user located within another municipality contributes wastewater to the publicly owned treatment works, the Control Authority shall enter into an intermunicipal agreement with the contributing municipality.

- (b) Prior to entering into an agreement required by subsection (a) of this section, the contributing municipality must provide the following information to the Control Authority:
 - (1) A description of the quality and volume of wastewater discharged to the publicly owned treatment works by the contributing municipality;
 - (2) An inventory of all users located within the contributing municipality that are discharging to the publicly owned treatment works; and
 - (3) Such other information as the Control Authority may deem necessary.
- (c) An intermunicipal agreement, as required by subsection (a) of this section, shall contain the following conditions and local limits, including required BMRs which are:
 - (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in section 106-820. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the city's ordinance or local limits;
 - (2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
 - (3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Control Authority; and which of these activities will be conducted jointly by the contributing municipality and the Control Authority;
 - (4) A requirement for the contributing municipality to provide the Control Authority with access to all information that the contributing municipality obtains as part of its pretreatment activities;
 - (5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the publicly owned treatment works;
 - (6) Requirements for monitoring the contributing municipality's discharge;
 - (7) A provision ensuring the Control Authority and/or the approval authority access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Control Authority; and
 - (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

Secs. 106-768—106-790. - Reserved.

DIVISION 4. - SEWER USE REGULATIONS

Subdivision I. - In General

Secs. 106-791—106-815. - Reserved.

Subdivision II. - Prohibited Discharges

Sec. 106-816. - General prohibitions.

No user shall introduce or cause to be introduced into the publicly owned treatment works any pollutant or wastewater which causes pass through or interference. These general prohibitions and the specific prohibitions in section 106-817 apply to all users of the publicly owned treatment works, whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

Sec. 106-817. - Specific prohibitions.

- (a) No user shall introduce or cause to be introduced into the publicly owned treatment works the following pollutants, substances, or wastewater:
 - (1) Pollutants which create a fire or explosive hazard in the publicly owned treatment works, including but not limited to wastestreams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21.
 - (2) Wastewater having a pH less than five or more than 12, or otherwise causing corrosive structural damage to the publicly owned treatment works or equipment.
 - (3) Solid or viscous substances in an amount which will cause obstruction of the flow in the publicly owned treatment works resulting in interference, but in no case solids greater than two inches or five centimeters in any dimension.
 - (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the publicly owned treatment works.
 - (5) Heat in amounts which will inhibit biological activity in the treatment plant resulting in interference, but in no case heat in such quantities which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).
 - (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
 - (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the publicly owned treatment works in a quantity that may cause acute worker health and safety problems.
 - (8) Trucked or hauled pollutants, except at discharge points designated by the city in accordance with section 106-854.
 - (9) Fats, oils and grease in concentrations greater than 500 mg/l, or which violate any other section of this subdivision.
- (b) Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the publicly owned treatment works.

Sec. 106-818. - National categorical pretreatment standards.

- (a) The categorical pretreatment standards found at 40 CFR chapter I, subchapter N, parts 405—471 are incorporated. All existing or new users shall also comply with all applicable pretreatment standards and requirements, including those set forth in 40 CFR 403.6.
 - (b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Control Authority shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
 - (c) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by the Environmental Protection Agency when developing the categorical pretreatment standard.
 - (d) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
- (1) Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the Control Authority. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2) of this section are met.

(2) Criteria

- (i) Either (i) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.
- (ii) Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on the process water pollutants either at the outfall or elsewhere.
- (iii) Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standards(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this section.
- (iv) Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW

discharges. The Control Authority may waive this requirement if it finds that no environmental degradation will result.

Sec. 106-819. - State pretreatment standards.

State requirements and limitations on discharges to the publicly owned treatment works shall be met by all dischargers which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this ordinance or any other applicable ordinance.

Sec. 106-820. - Local limits.

- (a) The city has two publicly owned treatment works: POTW #1, known as the Northside Treatment Plant, located at 5645 Burkburnett Road, Wichita Falls, Texas, and POTW #2, known as the Wichita Falls Resource Recovery Facility, located at 1005 River Road, Wichita Falls, Texas. As these two publicly owned treatment works have different capacities, flow characteristics, and receiving waters, the city has developed maximum allowable discharge limits for industrial users for each treatment works.
- (b) Each industrial discharger will be required to adhere to those limits established at the treatment works receiving its wastewater discharge. The following local limits are established to protect against pass through and interference and to protect sludge quality. These limits are deemed Pretreatment Standards for the purpose of section 307(d) of the Act. Except as provided, no person shall discharge wastewater in excess of the following maximum allowable discharge limits:

| Pollutant | Wichita Falls Resource Recovery Facility mg/l | Northside Treatment Plant mg/l |
|-----------|---|--------------------------------------|
| Antimony | 1.42 | 0.34 |
| Arsenic | 0.89 | 0.21 |
| Beryllium | 0.07 | 0.47 |
| Cadmium | 0.39 | 0.08 |
| Chromium | 6.82 | 3.48 |
| Copper | 6.75 | 2.30 |
| Cyanide | 0.38 | 0.06 |
| Lead | 2.26 | 0.58 |
| Mercury | 0.0083 | 0.0073 |
| Nickel | 4.64 | 0.34 |

| | | |
|----------|-------|------|
| Phenols | 3.94 | 0.87 |
| Selenium | 0.17 | 0.02 |
| Silver | 0.66 | 0.66 |
| Zinc | 42.54 | 1.72 |

- (c) Discharge of wastewater containing BOD and/or TSS in concentrations greater than 300 mg/l and fats, oils and grease in concentrations greater than 100 mg/l will be subject to a sewer surcharge at a rate set by the city council to defray the additional costs of treatment for excessive BOD, TSS and fats, oils and grease at the publicly owned treatment works.
- (d) The surcharge will be an additional charge to the current monthly industrial sewer charge. The surcharge will not be retroactive, but will continue until such time subsequent tests determine that the surcharge requires adjustment.
- (e) The limits in this section applies to Local Limits only at the point where the wastewater is discharged to the publicly owned treatment works. All concentrations for metallic substances are for total metal unless indicated otherwise. The Control Authority may impose mass limitations in addition to the concentration-based limitations in this section.
- (f) The Control Authority may impose additional and/or alternative limits by permit on specific individual industrial users. These limits shall be technically based on the allowable loading of the specified pollutant at the appropriate treatment plant. In no case shall these additional and/or alternative limits be less stringent than the above limits, or any applicable federal or state statute.
- (g) The Control Authority may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement Local Limits and the requirements of this ordinance.

Sec. 106-821. - City's right of revision.

The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the publicly owned treatment works.

Sec. 106-822. - Dilution.

No user shall ever increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Control Authority may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

Secs. 106-823—106-850. - Reserved.

Subdivision III. - Pretreatment Requirements

Sec. 106-851. - Pretreatment facilities.

Users shall provide necessary wastewater treatment to comply with this ordinance and shall achieve compliance with all applicable categorical pretreatment standards, local limits, and the prohibitions established by this ordinance in subdivision II of this division within the time limitations specified by the Environmental Protection Agency, the state, or the Control Authority, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Control Authority for review and shall be acceptable to the Control Authority before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under this ordinance.

Sec. 106-852. - Additional pretreatment measures.

- (a) Whenever deemed necessary, the Control Authority may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and meet such other conditions as may be necessary to protect the publicly owned treatment works and determine the user's compliance with the requirements of this ordinance.
- (b) The Control Authority may require any person discharging into the publicly owned treatment works to install and maintain, on his property and at his expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization. All records, charts, recorded charts or strips, and logs of such controls shall be maintained and provided upon request of the Control Authority.
- (c) Grease, oil, and sand interceptors or traps shall be provided when, in the opinion of the Control Authority, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil or sand; however, such interceptors or traps shall not be required for residential users. All interception units shall be of a type and capacity approved by the Control Authority and shall be so located to be easily accessible for cleaning and inspection. Such interceptors or traps shall be inspected, cleaned, and repaired regularly, as needed, by the user at his expense. A record of maintenance, repairs, and a log of pumping and waste hauling of contents shall be maintained and provided to the Control Authority upon request.
- (d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- (e) The Control Authority may require any user to install or have installed at the user's expense a control manhole, of a size and construction approvable by the Control Authority. Additionally, the Control Authority may require the user to construct or have constructed at the user's expense any structures, appurtenances, fences, embankments, rail guards, posts, security system, or any other device with eye bolts,

locks, lights, signs, or any other device to ensure the security and safety of Control Authority personnel and sampling equipment.

Sec. 106-853. - Accidental discharge and slug control plans.

- (a) Within one year of being designated as a SIU and at least once every two years thereafter whether each SIU needs a plan or other action to control slug discharges. The Control Authority may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary. Alternatively, the Control Authority may develop such a plan for any user. An accidental discharge plan shall address, at a minimum, the following:
- (1) Description of discharge practices, including nonroutine batch discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the Control Authority, other regulatory agencies such as the EPA and the approval authority, and the appropriate wastewater treatment plant of any accidental or slug discharge, as required by section 106-886; and
 - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include but are not limited to inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants including solvents, and/or measures and equipment for emergency response. The location of floor drains, if present, and any other possible sources of introduction into the waste stream or sanitary sewage system will also be identified.
- (b) The Control Authority is required to keep records of the activities associated with slug control evaluations and the results are required to be available to the Approval Authority upon request.

Sec. 106-854. - Hauled wastewater.

The following requirements are in addition to section 106-311 and subdivision III of division 2 of this ordinance:

- (1) Septic tank waste shall only be introduced into the publicly owned treatment works at locations designated by the publicly owned treatment works and at such times as are established by the publicly owned treatment works. Such waste shall not violate subdivision II of this division or any other requirements established by the city. The Control Authority shall require septic tank waste haulers to obtain wastewater discharge permits.
- (2) The Control Authority may require haulers of industrial wastewater to obtain wastewater discharge permits. The Control Authority may require generators of hauled industrial wastewater to obtain wastewater discharge permits. The Control Authority may also prohibit the disposal of hauled industrial wastewater. The discharge of hauled industrial wastewater is subject to all other requirements of this ordinance.

(3) Industrial wastewater haulers shall discharge loads only at locations designated by the publicly owned treatment works. No load may be discharged without prior consent of the publicly owned treatment works. The publicly owned treatment works or the Control Authority may collect samples of each hauled load to ensure compliance with applicable standards. The publicly owned treatment works or the Control Authority may require the industrial wastewater hauler to provide a waste analysis of any load prior to discharge.

(4) Industrial wastewater hauler must provide a trip ticket for every load.

(5) The superintendent of the POTW, or his designated representative, may at any time and without prior notice, refuse to allow the discharge of any specific load of hauled wastewater from any particular liquid waste hauler. This refusal may be based upon such criteria as questionable physical characteristics of the hauled wastewater (odor, color, etc.), past history of the manifested liquid waste generator, or any other such information or judgment that the discharge may adversely affect the POTW in any way. In the event of such refusal of discharge, the wastehauler shall provide to the Control Authority within 30 days, a manifest indicating the proper disposal of that load of hauled wastewater.

Sec. 106-855. - Disposal of contaminated water from leaking petroleum storage tank sites.

- (a) After treatment to specified standards, the contaminated water will be placed in a sanitary sewer line where possible. Disposal into the sanitary sewer system will be based on the quality of the water, the peak flow to be placed into the sewer, sewer capacity available, and the availability of sanitary sewer systems.
- (b) If necessary, the treated water can be placed into the storm drainage system. This disposal method will require an approval authority permit to discharge the treated water into the surface waters of the state. Disposal via the storm drain system must not create a nuisance to the properties between the affected site and the public stream where discharge is permitted by the approval authority.
- (c) Where it is not possible or feasible to dispose of the treated waters in the sanitary sewer or the disposal by storm drain will create a nuisance effect, and no other disposal methods are available, the city will determine the improvements required in the sanitary or storm drain systems to accept the flow. All improvements will be at the sole expense of the owner of the contaminated site. All improvements must be installed per city standards and procedures, and must be dedicated to the city.
- (d) All waters from a contaminated site, before disposal into a sanitary sewer, must meet the quality standards of this subdivision with the addition of the following standards for BTEX, lead, and total hydro-carbons:

| Chemical | ug/liter | mg/liter |
|----------|----------|----------|
| Benzene | 1,000 | 1.0 |
| Toluene | 1,000 | 1.0 |

| | | |
|--|-------|------|
| Ethyl benzene | 1,000 | 1.0 |
| Xylenes | 1,000 | 1.0 |
| Total BTEX | 2,000 | 2.0 |
| Total petroleum | | |
| Hydrocarbons (TPH) | | 2.0 |
| Lead (Wichita Falls Resource Recovery Facility POTW) | | 2.26 |
| Lead (Northside POTW) | | 0.58 |

- (e) Prior to disposal of the treated water from the contaminated site, the site owner must present to the Control Authority a copy of the approval authority approved plan for corrective action and, as required, an approval authority permit to discharge to surface waters. The Control Authority will be provided a copy of all laboratory tests conducted to meet the approval authority requirements in the plan for corrective action. The Control Authority may require additional tests beyond those of the approval authority approved plan of corrective action.
- (f) These procedures apply to either pump-and-treat flows or batch releases of treated waters from contaminated sites. Under no circumstances will a site owner dispose of treated waters from a LPST contaminated site in the city until authorized to do so by the Control Authority.
- (g) The owner will be required to obtain a permit from the Control Authority. This permit must be renewed annually. The owner must pay an initial permit fee and an annual fee to renew the permit. In addition, each month the owner may pay a fee to defray the cost of reviewing lab results and the results of city-initiated sampling and testing to ensure compliance with both the remedial action plan and the industrial pretreatment ordinance. These costs must be paid until the site is closed by the approval authority and disposal of treated waters has ceased. A statement of the amount of these fees can be obtained from the Control Authority.
- (h) If the treated water is disposed of in the sanitary sewer, there will be a minimum monthly charge plus the current commodity charge per 1,000 gallons disposed. The amount disposed generally shall be determined by the rated capacity of the pumps in a pump-and-treat system or by the size of the container in a batch disposal system (added).

Sec. 106-856. - Fraud and false statements.

The reports and other documents required to be submitted or maintained under this ordinance shall be subject to:

- (1) The provisions of 18 USC 1001 relating to fraud and false statements;

- (2) The provisions of section 309(c)(4) of the act, as amended, governing false statements, representations, or certifications; and
- (3) The provisions of section 309(c)(6) of the act regarding responsible corporate officers.

Secs. 106-857—106-880. - Reserved.

DIVISION 5. - REPORTING REQUIREMENTS

Sec. 106-881. - Baseline monitoring reports.

- (a) *Generally.* Within either 180 days after the effective date of a categorical pretreatment standard or 180 days after the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the publicly owned treatment works shall submit to the Control Authority a report which contains the information listed in subsection (b) of this section. At least 90 days prior to commencement of discharge, new sources and sources that become industrial users subsequent to the promulgation of an applicable categorical pretreatment standard shall be required to submit to the Control Authority a report which contains the information listed in subsection (b) of this section. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in subsections (b)(4) and (5) of this section.
- (b) *Required information to submit.* Users described in subsection (a) of this section shall submit the following information:
 - (1) *Identifying information.* The name and address of the facility, including the name of the operator and owners.
 - (2) *Environmental permits.* A list of any environmental control permits held by or for the facility.
 - (3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classification of the operation carried out by the user. This description should include a schematic process diagram which indicates points of discharge to the publicly owned treatment works from the regulated processes.
 - (4) *Flow measurement.* Information showing the measured daily and maximum daily flow, in gallons per day, to the publicly owned treatment works from each of the following:
 - a. Regulated process streams; and
 - b. Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e). (See subsection (b)(5)d of this section.)

The Control Authority may allow for verifiable estimates of these flows where justified by cost or feasibility consideration.

(5) *Measurement of pollutants.*

- a. The categorical pretreatment standards applicable to each regulated process.
- b. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.
- c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority.
- d. Sampling must be performed in accordance with procedures set out in section 106-891.
- e. The Control Authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
- f. The baseline report shall indicate the time, date, and place of sampling and methods of analysis and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the publicly owned treatment works.
- g. In cases where the Standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the Control Authority or the applicable standards to determine compliance with the standard.

(6) *Certification.* A statement, reviewed by an authorized representative of the industrial user and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements.

(7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional treatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 106-882.

- a. Where the industrial user's categorical pretreatment standard has been modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) at the time the user submits the report required by subsection (b) of this section, the information required by subsections (b)(6) and (7) of this section shall pertain to the modified limits.

- b. If the categorical pretreatment standard is modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) after the user submits the report required by subsection (b) of this section, any necessary amendments to the information required by subsections (b)(6) and (7) of this section shall be submitted by the user to the Control Authority within 60 days after the modified limit is approved.
 - c. The Control Authority shall have the authority to set compliance schedules where and when it so deems necessary or if the user's compliance schedule is deemed inadequate by the Control Authority.
- (8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with section 106-758.
- (9) In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the user

Sec. 106-882. - Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by section 106-881(b)(7):

- (1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable categorical pretreatment standards. Such events include but are not limited to hiring an engineer, completing preliminary plans, completing final plans, executing a contract for major components, commencing construction, completing construction, pretreatment system start-up, first discharge, and beginning and conducting routine operation.
- (2) No increment referred to in subsection (1) of this section shall exceed nine months.
- (3) Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the Control Authority, including, at a minimum, whether or not the user complied with the increment of progress to be met on such date and, if not, the date on which the user expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established.
- (4) In no event shall more than nine months elapse between such progress reports to the Control Authority.

Sec. 106-883. - Reports on compliance with categorical pretreatment standard deadline.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards or, for a new source, following commencement of the introduction of wastewater into the publicly owned treatment works, any industrial user subject to such

pretreatment standards and requirements shall submit to the Control Authority a report containing the information described in section 106-881(b)(4)-(6) & (9). For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production or other measure of operation, this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 106-758. All sampling will be done in conformance with section 106-891.

In cases where the Standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the Control Authority or the applicable standards to determine compliance with the standard.

Sec. 106-884. - Periodic compliance reports for categorical industrial users.

- (a) Any industrial user subject to a categorical standard, after the compliance date of such pretreatment standard or, for a new source, after commencement of the discharge into the publicly owned treatment works, shall submit to the Control Authority on or before July 30th and January 30th during the months of June and December, unless required more frequently in the pretreatment standard or by the Control Authority, the Environmental Protection Agency, or the approval authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical pretreatment standards. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the industrial user must submit documentation required by Control Authority or the pretreatment standard necessary to determine the compliance status of the industrial user. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in section 106-881(b)(4) except that the Control Authority may require more detailed reporting of flows. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may agree to alter the months during which such reports are to be submitted. All compliance reports must be signed and certified in accordance with section 106-758. The samplings may be done in the five months preceding the submittal months; however, they must be done within the same permit year.
- (b) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (c) If a user subject to the reporting requirement in this division monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Control Authority, using the procedures prescribed in section 106-891, the results of this monitoring shall be included in this report.
- (d) The reports required in this section shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data is representative of conditions occurring during the reporting period. The Control Authority shall require that frequency of monitoring necessary to assess and

ensure compliance by industrial users with applicable pretreatment standards and requirements.

- (e) All periodic compliance reports must be signed and certified in accordance with section 106-758.

Sec. 106-885. - Periodic compliance reports for significant noncategorical industrial users.

Significant noncategorical industrial users shall submit to the Control Authority at least once every six months, on dates specified by the Control Authority, a description of the nature, concentration, and flow of the pollutants required to be reported to the Control Authority. In cases where compliance with a Best Management Practice (BMP) or pollution prevention alternative is required, the user must submit documentation required by the Control Authority necessary to determine the compliance status of the user. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in section 106-891. All periodic compliance reports must be signed and certified in accordance with section 106-758.

Sec. 106-886. - Reports of changed conditions.

- (a) Each user must promptly notify both the Control Authority and the POTW in advance of any planned significant or substantial changes to the user's operations or system which might alter the nature, character, quality, or volume of its wastewater at least 30 days before the change.
- (b) The Control Authority may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 106-759.
- (c) The Control Authority may issue a wastewater discharge permit under section 106-759 or modify an existing wastewater discharge permit under section 106-763 in response to changed conditions or anticipated changed conditions.
- (d) For purposes of this section, significant changes include but are not limited to flow increases of 20 percent or greater, the discharge of previously unreported pollution, or the addition of any process subject to categorical pretreatment standards.
- (e) Significant industrial users are required to notify the Control Authority immediately of any changes at its facility affecting the potential for a slug discharge.

Sec. 106-887. - Reports of potential problems.

- (a) If any discharge, including but not limited to accidental discharges, discharges of a nonroutine episodic nature, a noncustomary batch discharge, or any slug discharge, that may cause potential problems for the publicly owned treatment works or for a reportable slug load, the user shall immediately telephone and notify the Control Authority of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

- (b) Industrial users shall notify the CA, EPA and state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.
- (c) Within five days following such discharge, the user shall, unless waived by the Control Authority, submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the publicly owned treatment works, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this division.
- (d) Every significant industrial user shall permanently post a notice on the user's bulletin board or other prominent place advising employees and contractors whom to call if a discharge described in subsection (a) of this section occurs. Employers shall ensure that all employees and contractors, who may cause such discharge to occur, are advised of the emergency notification.

Sec. 106-888. - Reports from other users.

- (a) All other users required to obtain a wastewater discharge permit shall provide such information and reports to the Control Authority as required by the wastewater discharge permit.
- (b) All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Control Authority as the Control Authority may require.

Sec. 106-889. - Notice of violation; repeat sampling and reporting.

If sampling performed by an industrial user indicates a violation, the user shall notify the Control Authority within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within 30 days after becoming aware of the violation, except the industrial user is not required to resample if the Control Authority performs sampling at the industrial user:

- (1) At a frequency of at least once a month; or
- (2) Between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

Sec. 106-890. - Discharge of hazardous waste.

Under this division, all users are prohibited from discharging hazardous waste.

Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.

Sec. 106-891. - Sampling and analytical requirements.

- (a) All pollutant sampling and analyses to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto, unless otherwise stated in an applicable categorical pretreatment standard. Where 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question or where the administrator determines that the 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the publicly owned treatment works or other parties, approved by the administrator.
- (b) A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The Control Authority may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.
- (1) Any report required by the Control Authority must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The frequency of monitoring shall be of that frequency necessary to assess and assure compliance by Industrial Users with applicable Pretreatment Standards and Requirements. Grab samples must be used for temperature, pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority, the samples must be representative of the Discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Control Authority, as appropriate.
- (2) All analyses shall be performed in accordance with procedures established by the Administrator pursuant to section 304(h) of the Act and contained in 40 CFR Part 136 and amendments thereto or with any other test procedures approved by the Administrator. (See, §§136.4 and 136.5.) Sampling shall be performed in

accordance with the techniques approved by the Administrator. Where 40 CFR part 136 does not include sampling or analytical techniques for the pollutants in question, or where the Administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Administrator.

- (3) All analyses shall be performed in accordance with procedures established by the Administrator pursuant to section 304(h) of the Act and contained in 40 CFR Part 136 and amendments thereto or with any other test procedures approved by the Administrator. (See, §§136.4 and 136.5.) Sampling shall be performed in accordance with the techniques approved by the Administrator. Where 40 CFR part 136 does not include sampling or analytical techniques for the pollutants in question, or where the Administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Administrator.
 - (4) if any Categorical Industrial User, any non-categorical Significant Industrial User, or any other Industrial User subject to reporting requirements monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Control Authority, using the procedures prescribed in this section, the results of this monitoring shall be included in the report.
 - (5) Non-detectable sampling results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR 136 with the lowest minimum detection level for that pollutant was used in the analysis.
- (c) Submissions of all pollutant analyses shall contain the following:
- (1) A copy of the laboratory report should be attached. The report should include the following information:
 - a. The name, address, and telephone number of the laboratory performing the analysis.
 - b. The units in which each parameter is reported.
 - c. The method of analysis used (e.g., Environmental Protection Agency 335.1, 3500-Zn-A, etc.). The method must be a technique for wastewater analysis as prescribed in 40 CFR 136.
 - d. The detection limit for each parameter measurement.
 - e. The name, initials, or other such unambiguous identification of the analyzing technician.
 - f. The date each analysis was performed.
 - g. The signature of the laboratory director, or equivalent position.
 - h. Quality control data (e.g., spikes, etc.).

- i. The results of the analyses.
- (2) A copy of the chain of custody records should be attached. Each record shall have the following:
- a. The name and address of the user being sampled.
 - b. The sample container identification number or other such unique, unambiguous identification.
 - c. For a grab sample, the date and time the sample was taken.
 - d. For a composite sampling, the date and time the composite sampler was set up and the date and time the composite sampler was retrieved.
 - e. The exact sampling point of the sample.
 - f. The method of taking the sample (i.e., grab sample, automatic or manual flow-proportioned composite sample, automatic or manual time-proportioned composite sample, etc.).
 - g. The name, title, and signature of the person taking the sample.
 - h. The method of preservation of the sample and the date and time it was preserved, or if no preservation was necessary.
 - i. The date and time dispatched for analysis, the name of the dispatcher, and the method of shipment, if the sample was so dispatched.
 - j. The name of the individual, company, and/or address to which the sample is dispatched.
 - k. The signature of the receiver of the sample, the date and time of its receipt, who it was received from, and its disposition.
- (d) All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

Sec. 106-892. - Timing.

Written reports submitted under this division will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt shall govern.

Sec. 106-893. - Recordkeeping.

Any CA and any users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were

performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the Control Authority, or where the User has been specifically notified of a longer retention period by the Control Authority. This requirement shall also apply to the Control Authority.

Sec. 106-894. Signatories to Reports

All reports and other information requested by the Approval Authority from the City shall be signed by the person and in the manner required by 30 TAC 305.128 (relating to Signatories to Reports).

Secs. 106-895—106-920. - Reserved.

DIVISION 6. - FEES, RATES AND CHARGES

Sec. 106-921. - Pretreatment charges and fees.

The Control Authority and the city may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include the following:

- (1) Fees for wastewater discharge permit applications, including the cost of processing such applications.
- (2) Fees for monitoring, inspection, and surveillance procedures, including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users.
- (3) Fees for reviewing and responding to accidental discharge procedures and construction.
- (4) Fees for filing appeals.
- (5) Surcharges for BOD and TSS above the value of 300 mg/l, and fats, oils and grease above 100 mg/l.
- (6) Other fees as the city may deem necessary to carry out the requirements contained in this ordinance. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the city.

Sec. 106-922. - Wastewater discharge permit fees.

- (a) Wastewater discharge permit fees shall be fixed according to the schedule established by separate ordinance.
- (b) The rates referenced in subsection (a) of this section are for a permit issued for a period of one year. The Control Authority may prorate the amounts for permits with shorter durations or may multiply the amounts by the appropriate factor for multiyear permits. Unless otherwise designated on the permit, all permits expire at 12:00 midnight on December 31 of the designated year.

Sec. 106-923. - Abnormal sewage surcharge.

- (a) Abnormal sewage shall be defined as sewage containing BOD and/or TSS in concentrations greater than 300 mg/l and/or fats, oils and grease in concentrations greater than 100 mg/l.
- (b) Any industrial user whose discharge contains abnormal sewage shall be subject to a monthly sewage surcharge payable to the city utility collection division. The surcharge shall be in addition to monthly sewer service charges. Monthly surcharges shall stay in effect until such time as the industrial user demonstrates that it has reduced the abnormality. The reduction must be attained in accordance with section 106-822 and subdivision III of division 4 of this ordinance. The surcharge shall be based on data determined by approved methods of the Environmental Protection Agency (see 40 CFR 136). This data shall be derived from all sampling done at least in the previous six-month period, but this period may be longer if deemed appropriate by the Control Authority. The Control Authority reserves the right to either increase or decrease the surcharge at any time to reflect additional data from sampling.
- (c) The surcharge for abnormal BOD shall be established by separate ordinance. Any discharge of water or wastewater with a concentration of BOD more than five times the average 24-hour concentration of normal operations of the industrial user shall be prohibited without the prior notification and specific permission of the Control Authority.
- (d) The surcharge for abnormal TSS shall be established by separate ordinance. Any discharge of water or wastewater with a concentration of TSS more than five times the average 24-hour concentration of normal operations of the industrial user shall be prohibited without the prior notification and specific permission of the Control Authority.
- (e) The surcharge for abnormal fats, oils and grease shall be established by separate ordinance. Discharge of fats, oils and grease over 500 mg/l is prohibited.
- (f) Each surcharge shall be assessed separately. For sewage containing more than one abnormal constituent, the surcharges shall be added together.
- (g) This charge shall be reviewed annually by the Control Authority who may recommend to the city council adjustments as necessary to reflect true costs to the city.

Secs. 106-924—106-950. - Reserved.

SECTION 2. Severability. If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. This ordinance shall take effect immediately from and after passage and publication in accordance with the provisions of the Charter of the City of Wichita Falls, Texas, and after approval by the Approval Authority, it is accordingly so ordained.

SECTION 5. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

PASSED AND APPROVED this the 20th day of April, 2021.

M A Y O R

ATTEST:

City Clerk

**CITY COUNCIL AGENDA
APRIL 20, 2021**

ITEM/SUBJECT: Resolution authorizing the replacement of a 60,000 pound, pressurized, Carbon Dioxide tank at the Jasper Water Treatment Plant, by Green and Sustainable Services, LLC, in the amount of \$274,240.00.

INITIATING DEPT: Public Works and Finance/Purchasing

STRATEGIC GOAL: Provide Adequate Infrastructure

STRATEGIC OBJECTIVE: Rehabilitate or Replace Outdated Public Facilities

COMMENTARY: The Jasper Water Treatment Plant has a standardized set of treatment processes to produce drinking water for the citizens of Wichita Falls and its 15 Wholesale customers. One of those processes requires the use of Carbon Dioxide to stabilize the water for protection of the distribution piping system.

The current Carbon Dioxide storage tank at Jasper is approaching 40 years of age and is showing signs of deterioration that could lead to catastrophic failure of the tank. To ensure a safe working environment for the plant staff and the surrounding neighborhood, as well as, the uninterrupted continuation of the necessary treatment process, it is recommended that the existing storage tank be replaced with a new storage tank.

The tank replacement is currently budgeted this fiscal year for \$250,000.00. A Buy Board member, Green and Sustainable Services LLC, has supplied a quote for the fabrication of a new Carbon Dioxide tank, removal of the existing tank and installation of the new tank, to include all fittings and piping at a cost of \$274,240.00. The additional funding of \$24,240.00 will be found by staff through savings in other areas of the Water Purification budget.

Staff recommends award of the tank replacement to Green and Sustainable Services LLC, a Buyboard member, at a cost of \$274,240.00.

☒ **Director, Public Works**

ASSOCIATED INFORMATION: Resolution , Quote

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

Resolution No. _____

Resolution authorizing the replacement of a 60,000 pound, pressurized, Carbon Dioxide tank at the Jasper Water Treatment Plant, by Green and Sustainable Services, LLC, in the amount of \$274,240.00

WHEREAS, one of the City of Wichita Falls' Strategic Goals is to Provide Adequate Infrastructure; and,

WHEREAS, the City desires to continue to have a reliable treatment system to produce drinking water; and,

WHEREAS, the City desires to produce a stable form of drinking water for its citizens and industry; and,

WHEREAS, it is in the best interest of the City of Wichita Falls to sole-source the purchase of the tank replacement from Green and Sustainable Service LLC.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

City staff is authorized to execute all documents necessary to purchase the tank replacement at Jasper Water Treatment Plant from Green and Sustainable Services, LLC., in the amount of \$274,240.00.

PASSED AND APPROVED this the 20th day of April, 2021.

MAYOR

ATTEST:

City Clerk



Green and Sustainable Services, LLC

2421 Amyx Ranch Drive
Ponder, Texas 76259-8032

Phone # (940) 597-3723 info@gmserv.com
Fax # (940) 479-2009 www.gmserv.com

Quote

| Date | Quote # |
|-----------|---------|
| 3/10/2021 | WF-101 |

| Name / Address |
|--|
| City of Wichita Falls Mark Southard (940) 691-1153 mark.southard@wichitafallstx.gov |

| | | Rep | Project |
|--|--------------|-----|--------------|
| | | | |
| Description | Qty | U/M | Total |
| BuyBoard Quotation for City of Wichita Falls, Water Treatment Equipment Project Name: HSi-30 Ton CO2 Skid System | 1 | | 0.00 |
| Design Basis: CO2 Service, 750lbs/hr MAX, 24 hour duration MAX, 180 psi send-out pressure, Stainless Plumbing (on tank), Stainless Plumbing (on pressure manifold), 480VAC/3ph/60hz | | | |
| Chart Industries HSi-30 Ton CO2 Skid System | | | 239,240.00 |
| Freight (Shipping and Handling Cost) | | | 8,125.00 |
| Chart Industries Installation | | | 22,500.00 |
| Chart Industries Professional Services - PE Stamped Anchorage Calculations | | | 4,375.00 |
| Please note the BuyBoard Fee is included in the Total HSi-30 Ton CO2 Skid System Quotation Price. Not included: Applicable Sales Tax or Duties, Permitting, Civil Engineering or Construction, Mechanical or Electrical Installation. | | | |
| Please note that Chart Industries is responsible to insure that the HSi-30 Ton CO2 Skid System meets and/or exceeds all required government and industry certifications, specifications and permit requirements (Green and Sustainable Services assumes no liability for system, all liability falls upon the manufacturer Chart Industries). | | | |
| Should the City of Wichita Falls initially decide to move forward with the project and later for any reason decide to cancel, then the City of Wichita Falls is responsible to pay 100% (one hundred percent) for items that are not allowed to be returned to the manufacturer and a 5% (5 percent) administrative fee and any associated restocking fee on items allowed to be returned to the manufacturer. | | | |
| Please contract Thomas Smith at (940) 597-3723 or tsmith@gmserv.com if you have any questions. | Total | | \$274,240.00 |

CITY COUNCIL AGENDA
April 20, 2021

ITEM/SUBJECT: Resolution authorizing the City Manager to enter into an Interlocal Cooperation Agreement with Midwestern State University for Fire Suppression activities, Search & Rescue activities, Radiological Protection activities and Hazardous Materials response, as well as responses to natural or manmade disasters.

INITIATING DEPT: Fire

STRATEGIC GOAL: Efficiently Deliver City Services

STRATEGIC OBJECTIVE: Practice Effective Governance

COMMENTARY: The City has supplied Fire Service to MSU since the college was founded. This proposed agreement formalizes services for Fire Suppression, Search and Rescue, HAZMAT, Radiological detection, and Emergency Management resources that have been afforded to MSU Texas in the past. The proposed agreement also includes Emergency Management cooperation between the City and MSU for any natural or manmade disasters that may occur on the university's campus.

Staff recommends approval of the resolution.

☒ **Fire Chief**

ASSOCIATED INFORMATION: Resolution

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

Resolution No. _____

Resolution authorizing the City Manager to enter into an Interlocal Cooperation Agreement with Midwestern State University for Fire Suppression activities, Search & Rescue activities, Radiological Protection activities and Hazardous Materials response, as well as responses to natural or manmade disasters

WHEREAS, MSU and the City of Wichita Falls are subject to danger and damage anytime from flooding, tornadoes, high winds, lightning, hazardous material incidents, and other acts of nature or terrorism; and

WHEREAS, in light of their respective common goals to reduce the loss of lives and property from natural or man-made emergencies or disasters, MSU and the City recognize the need to maintain a strong collaboration at a level that ensures efficient use of all available resources, consistent with the principles of each entity; and

WHEREAS, MSU and the City propose an emergency management Interlocal Cooperation Agreement to establish a formal working mutual-aid relationship between the City and MSU in support of emergency management planning, response, and recovery programs; and

WHEREAS, the interlocal Cooperation Act (Texas Government Code, Chapter 791) authorizes units of local government to contract with one or more units of local government to perform governmental functions and services; and

WHEREAS, MSU and the City agree to encourage, coordinate, promote, and support an ongoing relationship between both entities and to hold periodic partnership meetings to focus on, but not limited to, identifying and assessing an all hazards approach and associated risks, particularly as they relate to MSU and the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

The City Manager is authorized to execute an Interlocal Cooperation Agreement with Midwestern State University for Emergency Services.

PASSED AND APPROVED this the 20th day of April, 2021.

MAYOR

ATTEST:

City Clerk

STATE OF TEXAS §
 § **INTERLOCAL COOPERATION AGREEMENT**
COUNTY OF WICHITA §

This Agreement ("Agreement") entered into by and between the City of Wichita Falls, Texas ("City"), a Texas municipal corporation, and Midwestern State University ("MSU" or "University"), a coeducational institution of higher education organized under the laws of the State of Texas and located in Wichita Falls, Wichita County, Texas. City and MSU may be referred to herein individually each as a "Party" or together as the "Parties."

WHEREAS, Midwestern State University and the City of Wichita Falls are subject to danger and damage anytime from flooding, tornadoes, high winds, lightning, hazardous material incidents and other acts of nature or terrorism; and

WHEREAS, the City of Wichita Falls Emergency Management mission is to reduce the loss of life and property and protect its citizens from all types of hazards through a comprehensive, risk-based, all-hazards emergency management program of mitigation, preparedness, response and recovery; and

WHEREAS, the mission of MSU emergency management is to administer a campus-based comprehensive emergency management program in partnership with MSU academic departments operating units, staff, administration and its neighboring jurisdictions to safeguard lives and property; and

WHEREAS, in light of their respective common goals to reduce the loss of life and property from natural or man-made emergencies or disasters, MSU and the City recognize the need to maintain a strong collaboration at a level that ensures efficient use of all available resources, consistent with the principles of each entity; and

WHEREAS, MSU and the City propose this emergency management interlocal cooperation agreement to establish a formal working mutual-aid relationship between the City and MSU in support of emergency management planning, response and recovery programs; and

WHEREAS, this Interlocal Cooperation Agreement has been authorized by the governing bodies of the City and MSU; and

WHEREAS, the Interlocal Cooperation Act (Texas Government Code, Chapter 791) authorizes units of local government to contract with one or more units of local government to perform governmental functions and services; and

WHEREAS, MSU and the City agree to encourage, coordinate, promote, and support an ongoing relationship between both entities and to hold periodic partnership meetings to focus on, but not limited to, identifying and assessing an all hazards approach and associated risks, particularly as they relate to MSU and the City; and

NOW, THEREFORE, in consideration of the terms and conditions contained herein, the parties agree as follows:

Interlocal Cooperation Agreement – Emergency Services

Page 1 of 4

1. **Term:** The term of this Agreement shall be for one (1) year beginning on the last date all parties have executed this Agreement ("Effective Date") and shall automatically renew annually on the anniversary of the Effective Date for additional one (1) year terms unless either Party gives written notice of termination thirty (30) calendar days prior to the expiration of the then current term.

2 **Services:**

- A. The Wichita Falls Fire Department (WFFD) assumes primary responsibility for provision of the following emergency services, to MSU's main campus and properties, in Wichita Falls, Texas:
 - a. fire-suppression activities
 - b. search and rescue activities
 - c. radiological protection activities; and
 - d. hazardous material response
- B. The Parties agree that WFFD resources will remain under the operational control of the WFFD; however, the Parties agree to operate in accordance with National Incident Management System (NIMS) standards and shall establish a unified command, when appropriate. Appropriately trained and equipped MSU personnel may perform support roles.
- C. To encourage on-going liaison between entities, urging members of both organizations to develop increasingly effective communications and cooperation.
- D. To cooperate in areas of mutual interest relating to emergency management, including data/information sharing and training opportunities and exercises.
- E. Upon the request of either entity during an emergency or disaster, and contingent upon the other entity's ability to provide such resources, provide full utilization of available resources that are essential to the safety, care and welfare of those within the impacted jurisdiction.
- F. During an emergency or disaster, provide appropriate personnel and/or expertise to the requesting entity, as appropriate, and as resources allow, as determined by the chief executive of each entity, or his or her designee, and the respective emergency management coordinators.
- G. Collaboration in times of disaster or emergency to meet the needs of the respective jurisdictions.

3. **Notice:**

All notices required or permitted by this Agreement shall be in writing and be deemed received when deposited in the United States mail, postage prepaid, addressed to the following or such other person or address as the Parties may designate in writing or by hand-delivery or facsimile transmission to the address set forth below:

If intended for the City: City Manager
City of Wichita Falls
1300 7th Street, Wichita Falls, Texas 76301

with copy to: Wichita Falls City Attorney
1300 7th Street,
Wichita Falls, Texas 76301

If intended for MSUPD: Chief of Police
Midwestern State University
3410 Taft Blvd.
Wichita Falls, TX 76308

With copy to: General Counsel
Midwestern State University
3410 Taft Blvd.
Wichita Falls, TX 76308

4. **Amendment:** This Agreement may be amended by the mutual agreement of the Parties in writing and attached to and incorporated in this Agreement.
5. **Laws Governing:** The validity of the Agreement and any of its terms or provisions, as well as the rights and duties of the Parties, shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in Wichita County, Texas.
6. **Enforceability:** In the event that one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable, in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.
7. **Headings:** Paragraph headings are for convenience only and are not intended to expand or restrict the scope or substance of the provisions of this Agreement.
8. **No Third Party Beneficiaries:** Nothing herein shall be construed to give any rights or benefits to anyone other than the City and MSU. Failure to comply with any of the provisions of this Agreement shall not invalidate any action taken pursuant to this Agreement or grant any rights to any person suspected or charged with a crime.
9. **Entire Agreement:** This Agreement embodies the complete understanding of the Parties hereto, superseding all oral or written previous and contemporaneous agreements between the Parties and relating to the matters in this Agreement.
10. **Authorization:** By executing this Agreement, each Party represents that they have full capacity and authority to grant all rights and assume all obligations that they have granted and assumed under this Agreement, and that this Agreement has been authorized by the governing body of the respective Party.
11. **Counterpart:** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto, having represented and warranted their authority to enter into and execute this Agreement, has executed this Agreement effective as of the last date written below.

CITY OF WICHITA, TEXAS

MIDWESTERN STATE UNIVERSITY

Darron Leiker, City Manager

Suzanne Shipley
Suzanne Shipley, President

Date Signed: _____

Date Signed: 25 February 2021

ATTEST:

APPROVED AS TO FORM:

Marie Balthrop, City Clerk

Barry Macha
Barry L. Macha, General Counsel

Date Signed: _____

Date Signed: 24 Feb. 2021

APPROVED AS TO FORM:

Kinley Heggland, City Attorney

Date Signed: _____

CITY COUNCIL AGENDA
April 20, 2021

ITEM/SUBJECT: Resolution authorizing the City Manager to enter into an Interlocal Cooperation Agreement with Midwestern State University (MSU) for Public Safety and Municipal Court Services.

INITIATING DEPT: Police

STRATEGIC GOAL: Efficiently Deliver City Services

STRATEGIC OBJECTIVE: Practice Effective Governance

COMMENTARY: The City has aided MSU with Public Safety issues such as Law Enforcement since MSU was founded. This interlocal agreement formalizes the services of Public Safety agencies such as the Wichita Falls Police Department, Wichita Falls Dispatch, and Emergency Medical Services to the university. This agreement also coordinates municipal court services for criminal cases consisting of moving traffic offenses which are violations of Subchapter E of Chapter 51 of the Texas Education Code or rules and regulations promulgated under said chapter.

Staff recommends approval of the resolution.

☒ **Police Chief**

ASSOCIATED INFORMATION: Resolution

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

Resolution No. _____

Resolution authorizing the City Manager to enter into an Interlocal Cooperation Agreement with Midwestern State University (MSU) for Public Safety and Municipal Court Services.

WHEREAS, the City and MSU desire to maximize the efficiency and effectiveness of public safety and court services, and

WHEREAS, the interlocal Cooperation Act (Texas Government Code, Chapter 791) authorizes units of local government to contract with one or more units of local government to perform governmental functions and services; and

WHEREAS, the Parties have previously entered into an Interlocal Cooperation Agreement that has been amended from time to time; and

WHEREAS, the Parties desire to enter into a new Interlocal Cooperation Agreement for public safety and municipal court services; and

WHEREAS, each Party required to make any payments hereunder shall do so from current available revenue.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

The City Manager is authorized to execute an Interlocal Cooperation Agreement with Midwestern State University for Public Safety and Municipal Court services.

PASSED AND APPROVED this the 20th day of April, 2021.

MAYOR

ATTEST:

City Clerk

STATE OF TEXAS §
 §
COUNTY OF WICHITA §

INTERLOCAL COOPERATION AGREEMENT

This Agreement ("Agreement") entered into by and between the City of Wichita Falls, Texas ("City"), a Texas municipal corporation, and Midwestern State University ("MSU" or "University"), a coeducational institution of higher education organized under the laws of the State of Texas and located in Wichita Falls, Wichita County, Texas. City and MSU may be referred to herein individually each as a "Party" or together as the "Parties."

WHEREAS, the City and MSU desire to maximize the efficiency and effectiveness of police, fire and emergency medical services; and

WHEREAS, this Interlocal Cooperation Agreement has been authorized by the governing bodies of the City and MSU; and

WHEREAS, the Interlocal Cooperation Act (Texas Government Code, Chapter 791) authorizes units of local government to contract with one or more units of local government to perform governmental functions and services; and

WHEREAS, each Party required to make any payments hereunder shall do so from current available revenue; and

WHEREAS, the Parties have previously entered into an Interlocal Cooperation Agreement that has been amended from time to time; and

WHEREAS, the Parties desire to enter into a new Interlocal Cooperation Agreement for public safety and municipal court services;

NOW, THEREFORE, in consideration of the terms and conditions contained herein and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Term:** The term of this Agreement shall be for one (1) year beginning on the last date all Parties have executed this Agreement ("Effective Date") and shall automatically renew annually on the anniversary of the Effective Date for additional one (1) year terms unless either Party gives written notice of termination thirty (30) calendar days prior to the expiration of the then current term.
2. **Jurisdictional Agreements:** The City and MSU agree to exchange and provide certain governmental functions and services in the following manner:
 - A. In accordance with Section 51.203 (Campus Peace Officers) of the Texas Education Code, the primary jurisdiction of MSU campus peace officers includes Wichita County, Texas and within such jurisdiction such officers: (1) are vested with all the powers, privileges, and immunities of peace officers; (2) may, in accordance with Chapter 14, Texas Code of Criminal Procedure, arrest without a warrant any person who violates a law of the state; and (3) may enforce all traffic laws on streets and highways (which includes the property depicted in **Exhibit "A"**

and those public streets within the city limits of the City of Wichita Falls which are contiguous to the MSU campus; specifically Taft Boulevard, Hampstead Lane and Midwestern Parkway).

- B. MSU Police Department ("MSU PD") will exercise primary, non-exclusive jurisdiction over the property depicted in **Exhibit "A"** (MSU map) attached hereto.
- C. MSU PD's exercise of jurisdiction over the property depicted in Exhibit "A" will consist of the provision of all police services, except as otherwise specified in this Agreement, on property owned or under the control of MSU.
- D. Subject to the Parties' discretion as to participation and determination of availability of personnel and resources, and upon the request of either Party, either Party may assign its law enforcement officer(s) and resources to perform law enforcement duties within the requesting Party's jurisdiction, provided the chief law enforcement officer of the requesting jurisdiction, or said officer's designee, has determined the assignment is necessary. The judgment of the said officer or said officer's designee shall be final.
- E. The chief law enforcement officer of either Party, or said officer's designee, in said officer's sole discretion, may at any time withdraw assignees and discontinue participation in any activity initiated pursuant to this Agreement.
- F. An assignee shall be a peace officer with all the same powers he might have when within the territorial limits of the Party for which the assignee is regularly employed, and the assignee's qualifications for office where regularly employed shall constitute the assignee's qualifications for office within the jurisdiction of the requesting Party, and no other oath, bond or compensation need be made. Additionally such assignee shall have the same investigative authority as if the assignee were investigating criminal activity within the jurisdictional limits of the Party for which the assignee is regularly employed.
- G. Any assignee shall receive the same wage, salary, pension, and any and all other compensation and other rights for such service, including injury or death benefits, and workers compensation benefits, equipment, clothing, and vehicles, the same as though the service had been rendered within the jurisdictional limits of the Party where the assignee is regularly employed. Moreover, all wage and disability payments, including workers compensation benefits, pension payments, damage to equipment and clothing, medical expenses and expenses for travel, food and lodging shall be paid by the Party which regularly employs said assignee in the same manner as though the service had been rendered within the jurisdictional limits of the Party where said assignee is regularly employed.
- H. Upon the request of the MSU Chief of Police or designee, Wichita Falls Police Department (WFPD) agrees to provide to MSU Police Department (MSU PD) specialized personnel and resources, such as SWAT and crime scene investigation unit, with the WFPD Chief of Police's, or designee's, approval. In the event MSU PD requests such assistance to assist with any incident occurring on the MSU owned or controlled property, the command of any such unit will remain with the WFPD chain of command.
- I. Service of Arrest and Search Warrants: Unless otherwise required to respond to an emergency situation, MSU and WFPD will generally attempt to comply with the

following guidelines:

- a. When WFPD executes a warrant on any property owned or under control of the University, WFPD will contact the MSU PD and request a University police officer to accompany the officers. Efforts will be taken to refrain from interrupting a class to effect an arrest or execute a search warrant.
- b. When MSU PD executes a warrant within the city limits of the City, but off MSU property, MSU PD will contact the WFPD and request a WFPD police officer to accompany the officers.

3. Communications:

- A. The WFPD will assign to the MSU PD a radio call number to be used when authorized to communicate on WFPD radio frequency.
- B. The Communications Division of the WFPD shall serve as the primary public safety answer point ("PSAP") for 9-1-1 calls originating from residential properties within the City, including MSU properties.
- C. MSU PD shall maintain a secondary PSAP on a twenty-four (24) hour per day, seven (7) day per week basis.
- D. The City shall be responsible for the placement of orders for all 9-1-1 equipment and services for WFPD with AT&T or other applicable telecommunications company.
- E. The City shall provide primary call and dispatch service for all fire and emergency medical service calls.
- F. The City shall forward all police related calls for service originating from MSU property to the MSU secondary PSAP.

4. Court Service:

- A. The City shall provide full municipal court services including municipal court prosecution for MSU for criminal cases consisting of moving traffic offenses which are:
 - a. violations of Subchapter E of Chapter 51 of the Texas Education Code; or
 - b. rules and regulations promulgated under said subchapter.If requested by MSU, the Wichita Falls Municipal Court shall separately account for all fines, cost, bonds, or other funds pertaining to said violations.
- B. The City shall provide the municipal court prosecution services including the preparation and filing of all complaints or other documents necessary for the municipal court prosecution of any moving traffic offense which is a violation of Subchapter E of Chapter 51 of the Texas Education Code, or any rules or regulation promulgated thereunder.
- C. The Wichita Falls Municipal Court shall notify the MSU PD offices through a mutually agreeable procedure of any cases scheduled before the municipal court.
- D. MSU shall provide the Wichita Falls Municipal Court with certified/authenticated copies of the rules and regulations adopted by the governing board of MSU pursuant to Subchapter E of Chapter 51 of the Texas Education Code, and any amendments thereto.

MSU will cooperate in providing availability of its employees for Wichita Falls Municipal Court testimony who are witnesses in cases brought pursuant to this agreement. The Wichita Falls Municipal Court will send notices for required testimony to the Chief of Police of the MSU Police Department. The Chief of Police will coordinate distribution of the notice to appear to the relevant MSU employees.

- E. MSU shall comply with the Wichita Falls Municipal Court policies and procedures for the filing of citations and/or criminal cases pertaining to moving traffic offenses which are violations of Subchapter E of Chapter 51 of the Texas Education Code or any rules or regulations promulgated thereunder.
- F. As payment for the services to be provided by City to MSU under this Agreement, MSU agrees, to the extent allowed by law, that all fines and costs assessed and collected by the Wichita Falls Municipal Court shall be forfeited to the City in payment for said services.

5. Clery Act Compliance:

The Parties acknowledge that the University is required by federal law to comply with all aspects of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. In order to facilitate the University's compliance with the Act, the Parties agree:

- A. That the University is required to collect and publish statistics for reports of certain crimes, including crimes that occur on and around campus. As part of that obligation, the University must request crime statistics from WFPD annually. WFPD agrees to cooperate with the University and undertake reasonable efforts to respond to the University's request for crime statistics.
 - B. That the University is required to have an emergency notification process to alert the campus community about significant emergencies or dangerous situations that pose an immediate threat to the health or safety of students or employees occurring on campus. The University is also required to issue timely warnings to alert the campus community about crimes that pose a serious or continuing threat to safety when a crime is ongoing or may be repeated.
 - C. If WFPD is aware of a significant emergency, dangerous situation, or ongoing crime that poses an immediate threat to the health and safety of the University's students, faculty or staff, WFPD shall notify MSU PD so that MSU PD can determine whether an emergency notification or timely warning should be issued by the University.
 - D. That the University is required to maintain a daily list of all criminal incidents and alleged criminal incidents that occur on and around campus. WFPD agrees to notify the MSU PD as soon as practical of any criminal incidents or alleged criminal incidents that are reported as having occurred on University property, or on public property immediately adjacent to University property.
6. **Notice:** All notices required or permitted by this Agreement shall be in writing and be deemed received when deposited in the United States mail, postage prepaid, addressed to the following or such other person or address as the Parties may designate in writing or by hand delivery or facsimile transmission to the address set forth below:

If intended for the City: City Manager
City of Wichita Falls
1300 7th Street, Wichita Falls, Texas 76301

with copy to: Wichita Falls City Attorney
1300 7th Street,
Wichita Falls, Texas 76301

If intended for MSU PD: Chief of Police
Midwestern State University
3410 Taft Blvd.
Wichita Falls, TX 76308

With copy to: General Counsel
Midwestern State University
3410 Taft Blvd.
Wichita Falls, TX 76308

7. **Amendment:** This Agreement may be amended by the mutual agreement of the Parties in writing and attached to and incorporated in this Agreement.
8. **Laws Governing:** The validity of the Agreement and any of its terms or provisions, as well as the rights and duties of the parties, shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in Wichita County, Texas.
9. **Enforceability:** In the event that one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable, in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.
10. **Headings:** Paragraph headings are for convenience only and are not intended to expand or restrict the scope or substance of the provisions of this Agreement.
11. **No Third Party Beneficiaries:** Nothing herein shall be construed to give any rights or benefits to anyone other than the City and MSU. Failure to comply with any of the provisions of this agreement shall not invalidate any action taken pursuant to this Agreement or grant any rights to any person suspected or charged with a crime.
12. **Entire Agreement:** This Agreement embodies the complete understanding of the Parties hereto, superseding all oral or written previous and contemporaneous agreements between the Parties and relating to the matters in this Agreement.
13. **Authorization:** By executing this Agreement, each Party represents that they have full capacity and authority to grant all rights and assume all obligations that they have granted and assumed under this Agreement, and that this Agreement has been authorized by the governing body of the respective Party.
14. **Counterpart:** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto, having represented and warranted their authority to enter into and execute this Agreement, has executed this Agreement effective as of the last date written below.

CITY OF WICHITA, TEXAS

MIDWESTERN STATE UNIVERSITY

Darron Leiker, City Manager

Suzanne Shipley, President

Date Signed: _____

Date Signed: 25 February 2021

ATTEST:

APPROVED AS TO FORM:

Marie Balthrop, City Clerk

Barry L. Macha, General Counsel

Date Signed: _____

Date Signed: 24 Feb. 2021

APPROVED AS TO FORM:

Kinley Heggland, City Attorney

Date Signed: _____

Exhibit "A"



CITY COUNCIL AGENDA
April 20, 2021

ITEM/SUBJECT: Resolution to accept the written offer as presented for 1 Trustee parcel and authorizing execution of the Quitclaim Deed to convey title to Laurisa M. Ford.

INITIATING DEPT: Property Administration

STRATEGIC GOAL: Accelerate Economic Development

STRATEGIC OBJECTIVE: Support Neighborhood Revitalization

COMMENTARY: : In accordance with Section 272.001 and 253.008 of the Texas Local Government Code, a written offer has been made for the property located at 1101 Tulsa which was struck off with a dilapidated/unsafe structure. Demolition has now been completed.

This item relates to one (1) trustee property:

- 1101 Tulsa St. (struck-off value: \$9,340.83, tax appraisal: \$9,777.00 before demolition (land value now \$1,900.00), **written offer: \$800.00**, Struck off Date: April 4, 2017.)

Staff requests the City Council approve the conveyance of the property above for the offered amount.

To convey these properties for less than a minimum bid requires the approval of all three taxing entities.

- April 5, 2021 County Commissioner's Court Approved
- April 13, 2021 WFISD School Board Approved

The property will be sold "as is" via Quit Claim deed as abstracts, surveys, and title policies are not furnished by the City. The proposed buyer is in good financial standing with the City of Wichita Falls, Wichita County, and the WFISD.

City staff recommends approval of the resolution authorizing the City Manager to execute all necessary documents to facilitate the sale and conveyance of the parcel as described on the attached **Request to Purchase** list.

☒ **Property Administrator**

ASSOCIATED INFORMATION: Resolution, Request to Purchase, and Location Map.

☒ **Budget Office Review:**

☒ **City Attorney Review:**

☒ **City Manager Approval**

Resolution No. _____

**Resolution to accept the written offer as presented for 1 Trustee parcel
and authorizing execution of the Quitclaim Deed to convey title to
Laurisa M. Ford**

WHEREAS, the County commissioners and the WFISD School Board have both voted to accept the bids as presented; and,

WHEREAS, it is determined to be in the best interest of the public to return this property to private ownership and put the property back on the tax roll.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

The City Manager is hereby authorized to execute all necessary documents to facilitate the sale of 1101 Tulsa St. to Laurisa M. Ford as recommended and indicated by staff on the Bid Form.

PASSED AND APPROVED this the 20th day of April, 2021.

MAYOR

ATTEST:

City Clerk

Request to Purchase

1101 Tulsa Street – Lot 16, Block 1, Holliday Addition to the City of Wichita Falls, Wichita County, Texas

Laurisa M. Ford

| | |
|-----------------------------|-------------------|
| Written Offer: | \$800.00 |
| Judgment Amount: | \$9,340.83 |
| Tax Appraisal Value: | \$1,900.00 |
| Struck off Date: | 4/4/2017 |



AFTER DEMOLITION

LOCATION MAP – 1101 Tulsa St.



CITY COUNCIL AGENDA
April 20, 2021

ITEM/SUBJECT: Resolution allowing the City-owned property located at 1823 5th Street also known as Lot 1-C, Block 7, Bellevue Addition, Wichita Falls, Wichita County, Texas to be sold to The Redeemed Christian Church of God for \$300,000 as authorized by Section 272.001 of the Texas Government Code and authorizing execution of a Warranty Deed to convey title.

INITIATING DEPT: City Manager/Property Administration

STRATEGIC GOAL: Accelerate Economic Growth

STRATEGIC OBJECTIVE: Revitalize Depressed and Declining Neighborhoods

COMMENTARY:

The City acquired the property in 1904, leased it to the U.S. Navy from 1946 until 1993, and then leased it to WFISD for use as the Denver Alternative School until the District vacated the site last year. Subsequently, on November 3, 2020, the City Council authorized staff to offer the property for sale by sealed bid.

As required by law, the property has recently been appraised by an independent certified appraiser and the “fair market value” was determined to be \$445,000. The City, having met all advertising and notice requirements, has the ability to sell for less than the appraised value when appraised value offers are not submitted. The only bid to date received for the property is the subject bid from the Redeemed Christian Church of God.

Staff recommends approval of the resolution to enter into contract with The Redeemed Christian Church of God for the offer price of \$300,000 and authorizing the City Manager to execute all necessary documents to complete the sale.

☒ **Assistant City Manager**

☒ **Property Administrator**

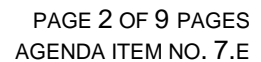
ASSOCIATED INFORMATION: Resolution, Plat Map, Exterior Building Pictures, Interior Building Pictures, Property Location Map

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

D:\WALT\2020\54471\54471.DWG FINAL (3) P-9/17/2020 11:27 AM S-9/17/2020 11:20 AM WALT





Main Building Interior



Main Building Interior



1,824 sf Modular Building



Interior



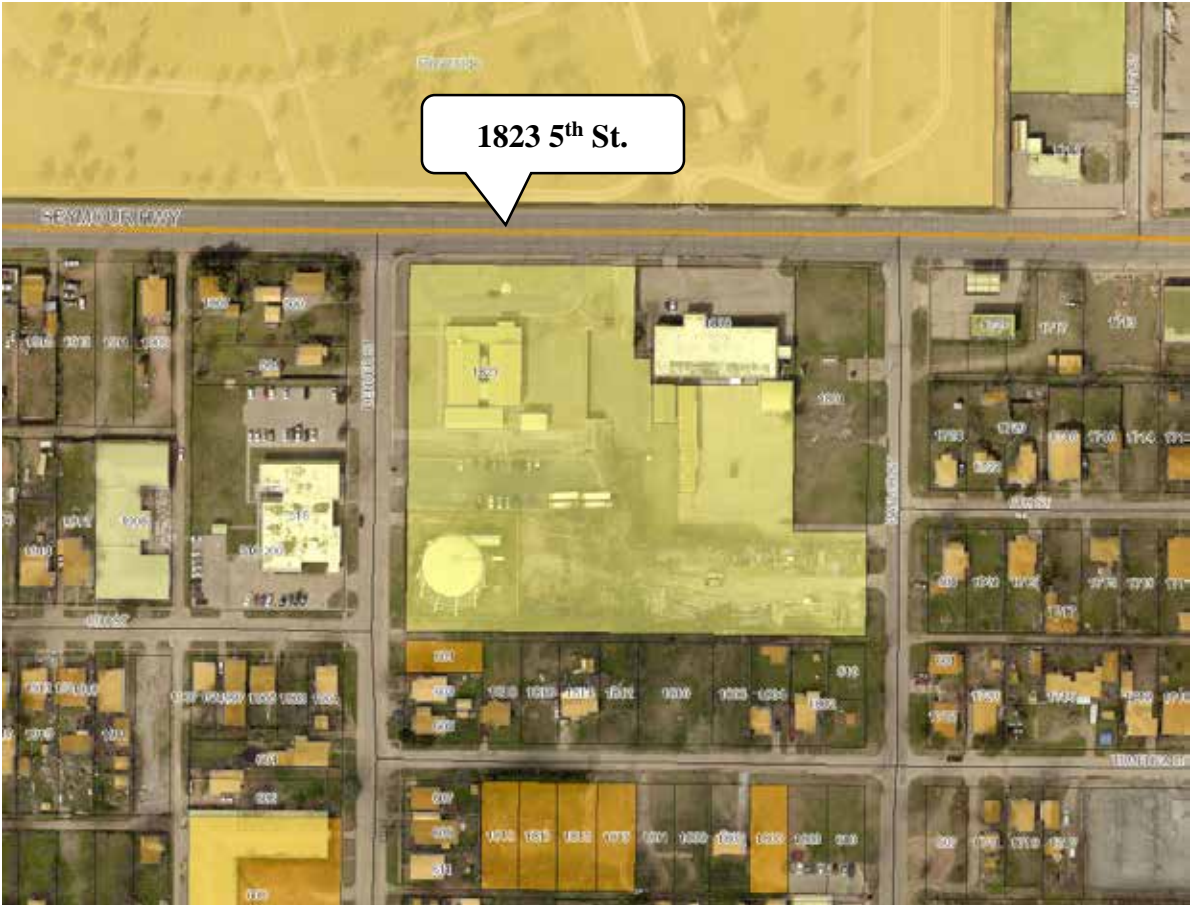
715 sf Modular Building



Interior



Property Location Map



Resolution No. _____

Resolution allowing the City-owned property located at 1823 5th Street also known as Lot 1-C, Block 7, Bellevue Addition, Wichita Falls, Wichita County, Texas to be sold to The Redeemed Christian Church of God for \$300,000 as authorized by Section 272.001 of the Texas Government Code and authorizing execution of a Warranty Deed to convey title

WHEREAS, the City owns property which has been determined as excess and no longer necessary for City operations and desires to sell the property and put it back on the tax roll; and,

WHEREAS, the City Council of the City of Wichita Falls, deems it reasonable to sell the property located at 1823 5th Street to The Redeemed Christian Church of God for \$300,000.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

1. The property located at 1823 5th Street and more specifically described in the attached **Plat Map, Exterior Photographs, Interior Photographs, and Property Location Map**, may be sold to The Redeemed Christian Church of God for \$300,000.
2. The City Manager is authorized to execute all documents necessary to complete the sell.

PASSED AND APPROVED this the 20th day of April, 2021.

MAYOR

ATTEST:

City Clerk

CITY COUNCIL AGENDA
April 20, 2021

ITEM/SUBJECT: Resolution approving the programs and expenditures of the Wichita Falls Type B Sales Tax Corporation Board of Directors and amending the budget to include funding up to \$55,700 to Jerry Skelton, c/o Chelsea Plaza, LLC, to assist in sewer infrastructure upgrades as part of the renovation of the existing building at 909 8th Street downtown.

INITIATING DEPT: City Manager's Office

STRATEGIC GOAL: Redevelop Downtown

STRATEGIC OBJECTIVE: Pursue Public/Private Partnerships

COMMENTARY: TEXAS LOCAL GOVERNMENT CODE § 501.073(a) provides "The corporation's authorizing unit (City Council) will approve all programs and expenditures of (the) corporation and annually review any financial statements of the corporation."

Timeline

- March 23, 2021 – Request for Type B funding received from applicant Chelsea Plaza, LLC;
- April 1, 2021 – Type B Corporation Board conducts public hearing and approves budget amendment to include funding up to \$55,700 for the project;
- April 20, 2021 – City Council to consider ratifying budget amendment facilitating project.

The applicant requests funding assistance in renovating the former Fidelity Bank building at 909 8th Street downtown for a prospective tenant. The funds are requested for the specific purpose of repairing/upgrading the sewer infrastructure as described in the attached letter. The approved amount of \$55,700 represents approximately 14% of the overall \$390,000 renovation costs.

The Corporation Board and well as City staff recommend approval of the resolution.

☒ **Assistant City Manager**

ASSOCIATED INFORMATION: Resolution

☒ **Budget Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

Resolution No. _____

Resolution approving the programs and expenditures of the Wichita Falls Type B Sales Tax Corporation Board of Directors and amending the budget to include funding up to \$55,700 to Jerry Skelton, c/o Chelsea Plaza, LLC, to assist in sewer infrastructure upgrades as part of the renovation of the existing building at 909 8th Street downtown.

WHEREAS, Texas Local Gov't. Code § 501.073(a) provides "The corporation's authorizing unit will approve all programs and expenditures of a corporation and annually review any financial statements of the corporation;" and,

WHEREAS, on April 1, 2021, the Wichita Falls Type B Sales Tax Corporation approved the project listed below and as stated in its agenda.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

1. The Wichita Falls Type B Sales Tax Corporation's approval and funding of the following programs and expenditures, in a total amount not to exceed **\$55,700** as described below and in said corporation's agenda, is approved:

An amount up to \$55,700 to Jerry Skelton, c/o Chelsea Plaza, LLC, to assist in sewer infrastructure upgrades as part of the renovation of the existing building at 909 8th Street downtown

2. The current fiscal year budget of the Type B Sales Tax Corporation is amended to provide for the aforementioned expenditures and changes thereto.

PASSED AND APPROVED this the 20th day of April, 2021.

MAYOR

ATTEST:

City Clerk

CHELSEA PLAZA

909 8th Street

New 8th Street Coffee House

RE: Chelsea Plaza Coffee Shop Renovation
for 8th Street Coffee House

March 23, 2021

Dear Mr. Menzies,

We are excited to provide some information regarding the above referenced project. The Chelsea Plaza development group is finalizing an agreement with 8th Street Coffee House to move into one of our tenant spaces at 909 8th street. This is the former location of the First Capital Bank of Texas, formerly Fidelity Bank which was vacated at the end of 2020. As we began our design phase, we have run into several roadblocks which could jeopardize the success of this project. We are requesting 4B funding assistance to cover one of these items, that being a very significant sewer infrastructure upgrade now required for this project. The sewer infrastructure upgrade includes the design and installation of 175 LF of sewer line and new manhole at the tie-in to the existing city main in the alley. We are requesting sixty thousand dollars (\$60,000) based on estimates provide by the design team and local contractors. This support funding will cover the design and installation and help close the funding gap we currently face.

Below we have provided additional information addressing four key elements of the project as outlined in Karen Montgomery-Gagne's email to us several weeks ago. They are as follows, 1) enhancing the downtown strategic plan, 2) funding information and cost estimates, 3) background into the submittal request and 4) architectural plans for reference. We have also included in this package the Total Project Cost Estimate prepared by BYSP architects, emails from James Lane and City Staff as well as the fore mentioned progress set of design drawings.

1. What does the project do to enhance the City's strategic plan for downtown?

This project continues the expansion the core of downtown up the 8th street corridor. It gives this side of Lamar street a vibrant and thriving anchor business that has been here since the beginning of the downtown revitalization. It will also be beneficial to the existing and future residential developments on the west side of Scott street as well as to the nearby office buildings. All of this will only help activate this 8th and Lamar intersection and continue the ongoing revitalization of our beloved downtown.

2. What other funding sources do you already have in place to ensure any 4B STC funds are only a small portion of the entire project or considered the 'gap funding'?

When we initially discussed the possibility of this project, we had enough cash reserves to cover the anticipated project cost of about \$300,000. In calculating the payback period, we were looking at about 5 1/2 years to recoup our investment. With the additional expenses of the sewer line and grease trap we are now facing a payback period of over 6 1/2 years that will deplete our cash reserves and may put a halt to the project. If the 4B board could help with these expenses, then it becomes a viable project once again. It becomes a win for everyone involved. 8th St Coffee House has a newly remodeled larger space with outside seating and a drive through which will attract more visitors downtown.

3. *Why were these additional investments not anticipated (infrastructure upgrade and new sewer main, etc.)?*

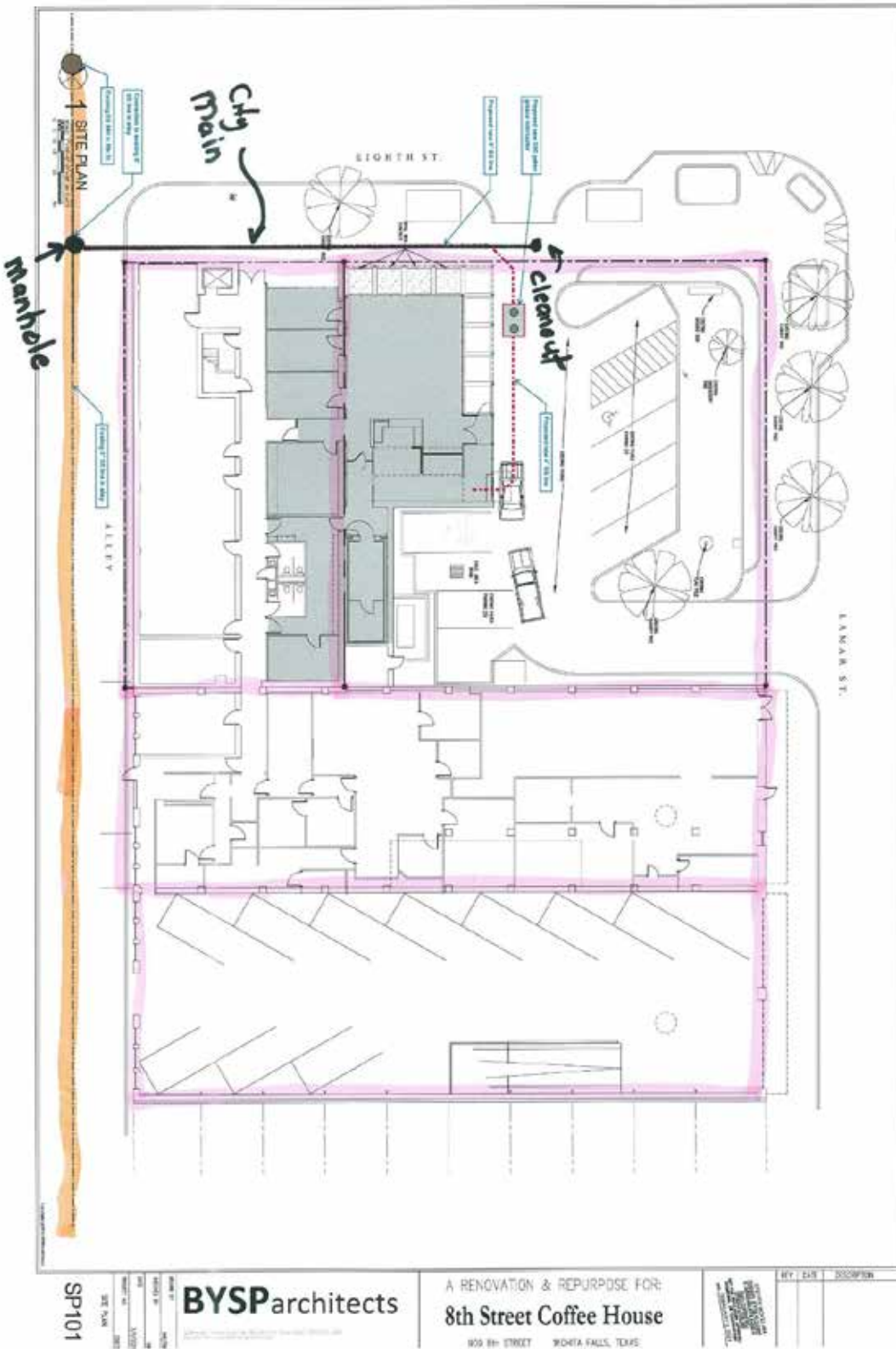
The current site formally Fidelity Bank did not have any sewer service for this lot or existing bank building. Past tenants have been able to use the facilities within the adjoining building, Chelsea Plaza 909 8th Street. When looking at the project in the beginning the thought was to tie the new sewer system into the Chelsea Plaza sanitary sewer. However, as we investigated the existing conditions the engineers and plumbers determined there was not sufficient fall or access for extending the sewer into the other building. The only other option was routing new sewer lines around the building and back to the city main in the alley to the southwest. BYSP shared this approach with City staff (Rick Branum & Blane Boswell) and received an email dated 2/26/21 informing our group this approach would be acceptable if the portion of the work completed in the Right-of-Way was a City main and built to city specs. With this direction we reached out to Leo Lane of James Lane to provide us with a cost estimate. After reviewing the proposed sewer design James Lane provided an estimate to extend a city sewer line up 8th street for an estimated cost of \$55,700. (See attached email)

4. *It would also be beneficial to have some basic interior layout plan views to help the board get a sense of the new use and change from the bank lobby to all new coffee bar/restaurant.*

Please see the PDF Progress Set of Architectural Drawings included in this submittal package for reference.

The Chelsea Plaza development group is passionate about being a key contributor in the successful enhancement of our beloved downtown and this project is one of many we plan to develop of the next several years to build on the early successes. We will continue working with local architects and contractors to complete our design package for permitting and construction with hopes of starting the project this spring. Thank you for your consideration and if any additional information is required or you have any questions, please let us know as we would be happy to help.

Sincerely,
Jerry Skelton, President
Chelsea Plaza, LLC



Steve Wood

From: Ricky Branum <ricky.branum@wichitafallstx.gov>
Sent: Friday, February 26, 2021 11:38 AM
To: Steve Wood
Cc: blane.boswell@wichitafallstx.gov; Matt West; jskelton58@aol.com
Subject: Re: Chelsea Plaza Sewer Options
Attachments: 909 8th St Sewer.PDF

Follow Up Flag: Follow up
Flag Status: Flagged

Steve, sorry for the late response, I was finally able to get the right folks together yesterday. To install the sewer as you show on your plan, the portion of the sewer in the City right of way would have to be a public sewer main. We do not allow private services to be installed in the right of way. See attached, I sketched it up.

Rick

On Wed, Feb 24, 2021 at 10:46 AM Steve Wood <swood@bysp.com> wrote:

Rick,

Just wanted to follow up on the email below in regards to the Chelsea Plaza sewer. Have you had a chance to look at this and if so any thoughts on if this might be a viable option?

Would love to discuss with you or whoever might be the best person to visit with.

Thanks,

Steve

Steve Wood AIA – Vice President/Principal

BYSParchitects

1005 Ninth Street - Suite 200 Wichita Falls, Texas 76301

Off: 940.761.2404 Cell: 940.733.8926 www.bysp.com

From: Steve Wood
Sent: Tuesday, February 9, 2021 2:31 PM
To: Ricky Branum <ricky.branum@wichitafallstx.gov>
Cc: Matt West <mwest@bysp.com>
Subject: Chelsea Plaza Sewer Options

Rick,

Needing a little assistance on the Chelsea Plaza Coffee Shop project we brought over for a pre-development meeting a couple weeks ago. As we continued our discovery work we have come to the conclusion there is no viable solution to tie new sewer lines into existing lines of the CP building. So in coordination with a SNB we are wanting to visit about another possible solution to provide SS service to this property. Attached is a quick PDF mark-up of maybe our only solution to make this work. I would like to visit about this by phone when you have a few minutes.

Take a look at what we are proposing and give me a call to visit in more detail and see if we can work out an agreeable solution for everyone.

Thanks,

Steve

Steve Wood AIA – Vice President/Principal

BYSParchitects

1005 Ninth Street - Suite 200 Wichita Falls, Texas 76301

Off: 940.761.2404 Cell: 940.733.8926 www.bysp.com

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Rick Branum, P.E. (CA)
Licensed in California
Public Works / Engineering Division
City of Wichita Falls, TX
940-761-6850
ricky.branum@wichitafallstx.gov

Steve Wood

From: Leo Lane <leo@jameslane.com>
Sent: Wednesday, March 3, 2021 7:34 AM
To: Steve Wood
Subject: Chelsea Plaza Grease Interceptor Budget

Follow Up Flag: Follow up
Flag Status: Completed

Steve:
Good morning.

I have priced the work related to the drawing for Chelsea Street.
Plumbing portion is estimated at \$36,700.00.
Concrete demo and patching is estimated at \$19,000.00.
This prices include sales tax.

I have not had time to verify the depth of the sewer.

Let me know if you need additional.
Thanks
Leo

Leo Lane, P.E.
Vice President

Direct #: (940) 500-4702
E-mail: Leo@JamesLane.com



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CHELSEA PLAZA COFFEE SHOP

909 8th Street
New 8th Street Coffee House

For:
Mr. & Mrs. Jerry Skelton
Wichita Falls, Texas

CHELSEA PLAZA – COFFEE SHOP
PRELIMINARY TOTAL PROJECT BUDGET
March 22, 2021

| | |
|--|-------------------------|
| A. <u>Building Construction</u> | \$ 335,000.00 |
| 1. Renovation of Bank space to Coffee Shop (3,350 SF. @ 100/sf) | |
| • Includes Additional Sewer Work - \$55,700 | |
| B. <u>Soft Costs</u> | \$ 33,500.00 |
| • Basic A/E Fees (Architectural & MEP) | |
| • Printing Costs | |
| • TAS/ADA Fees | |
| • City Plan Review Costs | |
| • Reimbursables | |
| C. <u>Fixtures, Furnishes, & Equipment (FF&E)</u> | \$ 11,500.00 |
| • Telephone/Computer/TV Cabling/Security | |
| • Equipment, Fixtures, etc. | |

| | |
|--------------------|----------------------|
| Sub-Total | \$ 380,000.00 |
| Contingency | \$ 10,000.00 |

| | |
|-------------------------------|----------------------|
| TOTAL PROJECT ESTIMATE | \$ 390,000.00 |
|-------------------------------|----------------------|

CITY COUNCIL AGENDA
April 20, 2021

ITEM/SUBJECT: Appointment to Wichita-Wilbarger 9-1-1 District

INITIATING DEPT: City Clerk

STRATEGIC GOAL: N/A

STRATEGIC OBJECTIVE: N/A

COMMENTARY: Glenn Barham's term on the Wichita-Wilbarger 9-1-1 District expires May 11, 2021. He has expressed interest and willingness to be reappointed to the board, and the board recommends his reappointment with a term to expire May 11, 2023.

His position is one of two members of the board appointed jointly by all participating municipalities in the district, and represents all of the cities in the district collectively.

☒ **City Clerk**

ASSOCIATED INFORMATION Letter from Wichita-Wilbarger 9-1-1- District, and Board Roster

☒ **City Attorney Review**

☒ **City Manager Approval**

WICHITA WILBARGER 911 DISTRICT

| <i>PLACE</i> | <i>NAME</i> | <i>APPOINTED</i> | <i>EXPIRATION</i> | <i>QUALIFICATIONS</i> | <i>DISTRICT</i> |
|---------------------|--------------------|--|--------------------------|-------------------------------------|------------------------|
| 1 | Glenn Barham | 08/05/2008 05/05/2009 04/19/2011 05/07/2013 04/07/2015 02/21/2014 04/02/2019 | 05/11/2021 | CWF | 1 |
| 2 | Jared Burchett | | 06/18/2021 | Volunteer Fire Department | |
| 3 | Pat Norriss | 02/11/2019 | 04/01/2021 | Wichita County | |
| 4 | Dana Ross | 05/05/2015 | 05/15/2022 | All Participating Municipalities | |
| 5 | Kent Smead | | 04/02/2022 | Wilbarger County | |
| 6 | Jeff Watts | | 05/12/2022 | Wichita County | |



Wichita-Wilbarger 9-1-1 District

906 Travis Street
P.O. Box 1829
Wichita Falls, Texas 76307
Phone - 940-723-8225 Fax - 940-723-5355

March 29, 2021

Darron Leiker, City Manager
City of Wichita Falls
P.O. Box 1431
Wichita Falls, Texas 76301

Dear Mr. Leiker,

The term of Mr. Glenn Barham, of Wichita Falls, one of the "cities appointees" to the Wichita-Wilbarger 9-1-1 District Board of Managers, expires on May 11, 2021. Mr. Barham has expressed his interest and willingness to be reappointed to the board. Mr. Barham has represented all of the cities within our district with honor and integrity.

I want to take a moment to explain the Board of Managers structure. The legislature which governs this 9-1-1 Board is the "Health and Safety Code, Title 9, ch. 772, subchapter d," for counties with a population over 20,000, and the legislated board makeup is as follows:

1. Two members appointed by the commissioners court from the original county in the district. (Wichita)
2. Two members appointed jointly by all the participating municipalities in the district. (One of these positions is the subject of this letter.) These appointees represent all of the cities in the district collectively.
3. One member appointed jointly by the volunteer fire departments. This member represents all volunteer fire departments in the district.
4. One member appointed by counties, which joined the district subsequent to its inception. (Wilbarger)
5. One non-voting member appointed by the principal service supplier.

I request that you place the appointment of a "cities" representative to our board of managers on a future council agenda prior to May 11, 2021. Please let me know of your decision by way of a certified copy of your minutes.

Respectfully,

L. Paul Hopkins, J. D.
Executive Director