



## 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

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**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, August 3, 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>)

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**Item #**

1. Call to Order
2. (a) Invocation: Scott Franks, Minister  
Edgemere Church of Christ
- (b) Pledge of Allegiance
3. Presentations
  - (a) Employee of the Month – Police Department
  - (b) Presentation: Certificate of Recognition to the Police Department from the Texas Police Chiefs Association Foundation.
  - (c) Proclamation – National 811 Day, Atmos Energy/Pam Hughes Pak
  - (d) Proclamation – National Health Center Week, Community Healthcare Center
  - (e) Proclamation – Judge Arthur Bea Williams Month

## **CONSENT AGENDA**

4. Approval of minutes of the July 20, 2021 Regular Meeting of the Mayor and City Council.
5. Receive Minutes
  - (a) WFMPO Technical Advisory Committee, April 8, 2021
  - (b) Animal Shelter Advisory Committee, April 16, 2021
  - (c) Wichita Falls Economic Development Corporation, May 20, 2021
  - (d) Fire Fighters and Police Officers' Civil Service Commission, June 3, 2021
  - (e) Wichita Falls Economic Development Corporation, June 17, 2021

## **REGULAR AGENDA**

6. Public Hearings & Ordinances
  - (a) Conduct a public hearing and take action on an ordinance continuing in effect sections 78-61 through 78-63 of the Wichita Falls Code of Ordinances, which provide a Juvenile Curfew, and providing a penalty of up to \$500 upon violation
    - i. Public Hearing
    - ii. Take Action
  - (b) Public Hearing concerning designation of Reinvestment Zone at 2400 Burkburnett Road, Wichita Falls, Texas
  - (c) Ordinance designating property as a Reinvestment Zone that is located at 2400 Burkburnett Road in Wichita Falls, Texas; providing for severability; and providing an effective date
  - (d) Consider and adopt an Ordinance authorizing the issuance of City of Wichita Falls, Texas, General Obligation Refunding Bonds, Taxable Series 2021; establishing procedures and delegating authority for the sale and delivery of the bonds; providing an effective date; and enacting other provisions relating to the subject
  - (e) Consider and approve an Ordinance authorizing the issuance of City of Wichita Falls, Texas, General Obligation Refunding Bonds, Series 2021; establishing procedures and delegating authority for the sale and delivery of the bonds; providing an effective date; and enacting other provisions relating to the subject
  - (f) Ordinance calling a General Election by the qualified voters of the City of Wichita Falls to be held on Tuesday, November 2, 2021, for the purpose of

electing a Councilor At-Large, Councilor District 1, and Councilor District 2; and authorizing a contract with Wichita County to furnish election services and equipment

- (g) Ordinance authorizing the City Manager to execute all documents necessary to apply for and accept \$1 million in Federal Aviation Administration Entitlement grants for debt service and other projects at Wichita Falls Regional Airport and appropriating said funds to the FAA Airport Improvement Grant 2021 Fund
- (h) Ordinance authorizing the City Manager to execute all documents necessary to apply for and accept up to \$50,000 in Texas Department of Transportation Aviation Division Routine Airport Maintenance Program (RAMP) Funds for FY 2022 Projects at Kickapoo Downtown Airport and appropriating said funds and the City's match of \$50,000 into the Special Revenue Fund
- (i) Ordinance authorizing the City Manager to execute all documents necessary to apply for and accept up to \$50,000 in Texas Department of Transportation Aviation Division Routine Airport Maintenance Program (RAMP) Funds for FY 2022 Projects at Wichita Falls Regional Airport and appropriating said funds and the City's match of \$50,000 into the Special Revenue Fund
- (j) Public hearing and consideration to rezone +/- 4.06 acres of land located at 504 Kemp Boulevard (Lot 1-A, Block J&I, Kemp West End Addition & 0.325 acres out of Block I, Kemp's West End Addition), from Multi-Family Residential (MFR) to General Commercial (GC) zoning district to allow for the expansion of commercial uses and development of a mixed use site; and amend the Land Use Plan from High Density Residential to Commercial
  - i. Public Hearing
  - ii. Take Action
- (k) Public hearing and consideration to rezone +/- 25.91 acres of land located at 4314 Barnett Road (+/- 25.91 AC out of Block 11 of the Kemps Subdivision of the William Myers Survey Abstract 193 & Blocks 18 & 19, League 1, of the Denton County School Lands, Abstract 58), from Single Family-2 Residential (SF-2) to Light Industrial (LI) and Heavy Industrial (HI) zoning districts to provide consistent zoning designation within a split zoned tract and align the districts with the adjacent tracts; and amend the Land Use Plan from Parks to Industrial
  - iii. Public Hearing
  - iv. Take Action

- (l) Ordinance amending Ordinance No. 50-2019 declaring certain structures as dangerous by allowing the property owner additional time to rehabilitate 2204 Harvard

7. Resolutions

- (a) Consider and approve a resolution of the Wichita Falls 4B Sales Tax Corporation 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
- (b) Resolution approving the programs and expenditures of the Wichita Falls Type B Sales Tax Corporation (4BSTC) Board of Directors and amending the budget to provide for a \$2 million forgivable loan and sales tax rebates in the form of a performance agreement between the 4BSTC and OH-Wichita Falls, LLC (developer), related to the acquisition and construction by developer of a new full-service convention center hotel facility in the City of Wichita Falls
- (c) Resolution reviewing and approving the updated investment policy for the City of Wichita Falls
- (d) Resolution approving a substantial amendment to the PY 2019 Annual Action Plan of the 2015-2019 Consolidated Plan of the City of Wichita Falls to receive and administer an additional \$594,749 through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) in a special allocation from the US Department of Housing and Urban Development (HUD)
- (e) Resolution approving the PY 2021 Action Plan of the 2020-2024 Consolidated Plan of the City of Wichita Falls to include any and all revisions to the plans approved by the U.S. Department of Housing and Urban Development (HUD), to allocate FY 2021 Community Development Block Grant (CDBG) funds in the amount of \$1,244,016 and FY 2021 HOME Investment Partnership Program (HOME) funds in the amount of \$434,184; authorizing the City Manager to execute HUD Grant Applications and Agreements to implement the approved Plans, to include any and all revisions approved by HUD
- (f) Resolution authorizing the City Manager to approve Change Order No. 1 for the 2019 Maplewood Extension from Lawrence to McNiel Project to Wilson Contracting in the amount of \$102,233.80
- (g) A Resolution of the City Council of the City of Wichita Falls, Texas, approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the Company's 2021 Rate Review Mechanism Filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments



consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attached exhibit establishing a benchmark for pensions and retiree medical benefits; approving an attached exhibit regarding amortization of regulatory liability; requiring the company to reimburse ACSC's reasonable ratemaking expenses; determining that this resolution was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this resolution to the company and the ACSC's legal counsel

- (h) 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 \$100,000 to The Wichita County Heritage Society to assist in the renovations of the Kell House Museum at 900 Bluff Street
  - (i) Resolution approving the programs and expenditures of the Wichita Falls Economic Development Corporation (WFEDC) by amending the existing incentive agreement of up to \$2,800,000 with Panda Biotech related to their proposed operation out of the former Delphi Plant on I-44
- 8. Announcements concerning items of community interest from members of the City Council. No action will be taken or discussed.
  - 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 Session in accordance with Texas Government Code §551.087, to discuss or deliberate the offer of a financial or other incentive, including modification to an existing agreement, for 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.
  - 11. Appointments to Boards and Commissions
    - Park Board
  - 12. Adjourn

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**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.**

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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 28th day of July, 2021 at 5:00 o'clock p.m.

  
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City Clerk

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## **CITY COUNCIL AGENDA**

**August 3, 2021**

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**ITEM/SUBJECT:** Employee of the month.

**INITIATING DEPT:** Police

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**COMMENTARY:** Presentation of the Employee of the Month Award (plaque, letter of appreciation, dinner for two and check for \$100) to Kathryn Faust.

☒ **Director of Human Resources**

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**ASSOCIATED INFORMATION:** Resolution

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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**EMPLOYEE OF THE MONTH**  
**FOR**  
**August, 2021**

**NAME:** Kathryn Faust  
**DEPARTMENT:** Police  
**HIRED:** April 8, 2019  
**PRESENT POSITION:** Dispatcher

**NARRATIVE:** Kathryn Faust has been employed as a Dispatcher with the City of Wichita Falls since April 8, 2019. She was a member of the 31<sup>st</sup> Public Safety Dispatch Academy. After completion of the Dispatch academy, Kathryn was one of the first in her academy to become fully trained. Kathryn is very knowledgeable and always eager to learn and currently trains several newer employees. Kathryn has a great attitude and willing to do whatever is asked of her. Kathryn's performance has always been above and beyond what is expected of her for the time she has been employed in Dispatch. Kathryn was selected to fill in as an Acting Lead Dispatcher due to her skills and performance in the absence of one of the Dispatch Supervisors from February 2021 to May 2021. Kathryn did an outstanding job in the acting position where she did not require a various amount of training for the position, she could be relied upon to make sure all employees on her shift were ok and everything went smoothly in the center while she was in charge.

**FAMILY:** Kathryn has been married to Michael Noe for 8 years. Michael is also a City employee. Kathryn has 3 children who she loves spending time with. Victor 9 years old, Maya 5 and Vincent who is 4.

**HOBBIES:** Kathryn is a gamer and loves playing video games with her husband in her free time but her greatest joy is spending time with her 3 children.

**CLOSING:** Kathryn is an asset to the Communications section. We appreciate her knowledge, her skills, and most of all her dedication to the department.



City of Wichita Falls  
City Council Meeting  
Minutes  
July 20, 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

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Mayor Santellana called the meeting to order at 8:30 a.m.

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**Item 2a – Invocation**

Councilor Smith gave the invocation.

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**Item 2b – Pledge of Allegiance**

Mayor Santellana led the Pledge of Allegiance.

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**Item 3-5 – Consent Items**

8:32 a.m.

Darron Leiker, City Manager, gave a briefing of 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 3 – Approval of minutes of the July 6, 2021 Regular Meeting of the Mayor and City Council**

**Item 4 – Resolution 73-2021**

Resolution authorizing the City Manager to award bid and contract for the Duncan Channel Access Road to Knight Erosion Control, Inc. dba KEC Retaining Walls & Construction Inc. in the amount of \$267,811.90.

**Item 5 – Receive Minutes**

- (a) Wichita Falls-Wichita County Public Health Board, March 12, 2021
- (b) Wichita Falls Park Board, March 25, 2021
- (c) Wichita Falls-Wichita County Public Health Board, May 14, 2021
- (d) Lake Wichita Revitalization Committee, June 8, 2021

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**Item 6a – Public Hearing**

8:33 a.m.

Public Hearing for ordinance continuing in effect Sections 78-61 through 78-63 of the Wichita Falls Code of Ordinances, which provide a juvenile curfew.

Mayor Santellana opened the public hearing at 8:33 a.m.

Kinley Heggland, City Attorney, discussed the requirement to review the juvenile curfew ordinance every three years, to hold two public hearings, and he reviewed the current ordinance.

Chief Borrego discussed the need for the ordinance, tickets written, and arrests for curfew violations. He does not recommend any changes to the ordinance.

There was brief discussion regarding the hours of the curfew.

Mayor Santellana closed the public hearing at 8:38 a.m.

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**Item 6b – Public Hearing**

8:38 a.m.

Public Hearing to receive citizen comments concerning the proposed Substantial Amendment to the 2019 Annual Action Plan to access and receive \$594,749 in funding through the Community Development Block Grant – Coronavirus program.

Mayor Santellana opened the public hearing at 8:39 a.m.

Terry Floyd, Director of Development Services, discussed the 2019 Annual Action Plan, CDBG-CV program, proposed amendments, timeline, and subcommittee recommendations.

There was brief discussion regarding the funds for neighborhood revitalization, restrictions on the funds, and planning/visioning meetings that will be held.

Mayor Santellana closed the public hearing at 8:45 a.m.

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**Item 6c – Public Hearing**

8:45 a.m.

Public Hearing Action Plan to allocate FY 2021-2022 Community Development Block Grant (CDBG) funds in the amount of \$1,244,016, CDBG-Coronavirus (CDBG-CV) funds in the amount of \$594,749, and FY 2021-2022 HOME Investment Partnership Program (HOME) funds in the amount of \$434,184.

Mayor Santellana opened the public hearing at 8:46 a.m.

Mr. Floyd discussed the allocation of 2021-2022 CDBG funds, CDBG-CV funds, and HOME funds as recommended by the subcommittee. There was brief discussion regarding the programs funded, success of the programs, and challenges with rising costs.

There was brief discussion regarding the application period for the minor home repairs program, and it was stated the next application period would be March 2022.

Mayor Santellana closed the public hearing at 8:53 a.m.

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**Item 7a – Ordinance 20-2021**

8:53 a.m.

Ordinance amending Chapter 82 Parks and Recreation Article VIII Off Leash Dog Facility in Lake Wichita Park in its entirety, and providing for codification.

Moved by Councilor Brewer to approve Ordinance 20-2021.

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 7b – Ordinance 21-2021**

8:58 a.m.

Ordinance appropriating \$1,233,833 in American Rescue Plan Act 2021 Funds for Airport Operators under the Airport Rescue Grant Program and authorizing the City Manager to execute all necessary funding agreements related hereto and amending the Airport Fiscal Year 2020-2021 budget in an amount of \$80,000 for airfield striping at Wichita Falls Regional Airport.

Moved by Councilor Chenault to approve Ordinance 21-2021.

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 8a – Resolution 74-2021**

9:02 a.m.

Resolution authorizing the City Manager to award bid and contract for the Water Distribution Complex Windows & Painting Project to Cross R's Company, LLC in the amount of \$132,658.70.

Moved by Councilor Brewer to approve Resolution 74-2021.

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

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

Nays: None

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**Item 8b – Resolution 75-2021**

9:05 a.m.

Resolution authorizing the City Manager to apply for non-matching Grant Funds from the FY 2021 Edward Byrne Memorial Justice Assistance Grant Program in the amount of \$29,118.00 with co-applicant, Wichita County Sheriff's Office.

Moved by Councilor Brewer to approve Resolution 75-2021.

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 8c – Resolution 76-2021**

9:07 a.m.

Resolution Establishing Criteria for Redistricting of Political Boundaries.

Moved by Councilor Browning to approve Resolution 76-2021.

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

CITY COUNCIL MINUTES  
July 20, 2021  
PAGE 5 OF 12

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

Nays: None

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**Item 8d – Resolution 77-2021**

9:10 a.m.

Resolution authorizing the sale of 7.19 acres of land, identified as Lot 1-C, Block 1 of MPEC South Addition, and Lot 1-D, Block 1 of MPEC South Addition located in Wichita Falls, Texas, to OH-Wichita Falls, LLC, for development, construction and operation of a full-service convention center hotel and a future hotel for \$1,879,178.00; authorizing the City Manager to execute the Sales Contract between the City of Wichita Falls and OH-Wichita Falls, LLC.

Moved by Councilor Chenault to approve Resolution 77-2021.

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

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

Nays: Councilor Jackson

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**Item 8e – Resolution 78-2021**

9:30 a.m.

Resolution authorizing the City Manager to execute the Chapter 380 Economic Development Agreement with OH-Wichita Falls, LLC, for the development, construction and operation of a full-service convention center hotel and a future hotel; and authorizing appropriation of \$1,879,178.00.

Moved by Councilor Browning to approve Resolution 78-2021.

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

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

Nays: Councilor Jackson

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**Item 8f – Resolution 79-2021**

9:31 a.m.

Resolution authorizing the City Manager to execute the Easement Agreement for Access and Maintenance with OH-Wichita Falls, LLC, for access to the common drive and parking area at the site of the future full-service convention hotel and a future hotel.

Moved by Councilor Brewer to approve Resolution 79-2021.

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

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

Nays: Councilor Jackson

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**Item 9 – Announcements concerning items of community interest from members of the City Council**

9:32 a.m.

Councilor Smith discussed the eviction crisis and the Wichita Falls Housing Authority having approximately 200 units that are \$1000 or more behind on rent payments and discussed various programs and assistance provided. He encouraged citizens concerned about eviction to call him or one of our housing employees. He discussed his concern of the COVID-19 Delta variant, and those not vaccinated. He encouraged everyone to protect themselves, their families, and neighbors and discussed the high transmission rate of this variant.

Councilor Whiteley appreciates Mr. Jurecek's presentation and the information provided. He discussed the need for the hotel/convention center project, and the impact it will have on the community. This is a good project for our community that we will benefit from, and he appreciates the work the staff has done.

Councilor Browning congratulated city staff and council for the hotel project and congratulated Wichita Falls ISD for choosing names for the new schools.

Councilor Chenault stated that New Jerusalem Baptist Church will have a free COVID vaccine clinic on July 24<sup>th</sup> from 9:00 a.m. – 12:00 p.m. The Community Healthcare Center will have free sports physicals on July 29<sup>th</sup> from 2:00 p.m. – 5:00 p.m. for all middle school, high school, and youth sport participants, and will provide COVID vaccines for those interested. School will start back soon and there are several back to

CITY COUNCIL MINUTES

July 20, 2021

PAGE 7 OF 12

school giveaways. Councilor Chenault provided information for the following events: BTO Backpack giveaway on July 31<sup>st</sup> from 12:00 p.m. – 2:00 p.m. in Lynwood Park; Davenports Grocery on August 6<sup>th</sup> from 3:00 p.m. – 6:00 p.m. where they will have free school supplies, raffles, and live music; Project Back to School on August 7<sup>th</sup> at the MPEC 9:00 a.m. – 12:00 p.m.; St. Matthew Baptist Church Back to School Bash on August 7<sup>th</sup> 8:00 a.m. – 12:00 p.m.; and the Anti Bully Back to School Giveaway August 8<sup>th</sup> starting at 3:00 p.m. at the Youth Opportunity Center. Childcare Partners Inc. is requesting birthday cards for Arthur Bea Williams for her 88<sup>th</sup> birthday and they can be mailed to P.O. 8172, Wichita Falls, TX 76307 beginning July 25<sup>th</sup>.

Councilor Brewer had the privilege and opportunity to attend the change of command at Sheppard Air Force Base, and discussed what an asset the base is to our city.

Councilor Jackson stated the change of command was a great ceremony and we need to continue to support Sheppard Air Force Base. Congratulations to the young lady that had a court case regarding basketball goals. The case was dropped, fines were removed, and the goal will be able to stay. He believes we should be able to keep our kids in our neighborhoods.

Councilor Chenault congratulated the Lalani family for the grand opening for the new Tru/Home2 by Hilton. She discussed the new Downtown Zoning Stakeholders committee meeting and the open forum that will be held next month.

Mayor Santellana thanked Councilor Chenault for filling in for him while he was out for the birth of his daughter, and thanked the rest of the council for supporting recent events. The new school names were announced yesterday and picking mascots will be next. He is excited that we will have two new schools and this will be the largest amount of construction being completed at one time with the schools and hotel/convention center project. Mayor Santellana discussed the economic impact the new schools could have in the community by bringing new economic development projects to Wichita Falls.

Councilor Chenault stated that on July 24<sup>th</sup> at Powerhouse Cathedral Church of God and Christ, there will be a free back pack event.

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**Item 10 – Comments from the Public to Members of the City Council Concerning Items That Are Not on the City Council Agenda**  
9:49a.m.

There were no comments from the public.

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CITY COUNCIL MINUTES  
July 20, 2021  
PAGE 8 OF 12

**Item 11 – Executive Session**

9:49a.m.

City Council adjourned into Executive Session at 9:49 a.m. in accordance with Texas Government Code §551.074, §551.087, §551.071, and §551.072.

City Council reconvened at 11:05 a.m.

Mayor Santellana announced that no votes or polls were taken.

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**Item 12 – Appointments to Boards and Commissions**

Moved by Councilor Smith to appoint Brent Hillery to Place 4 on the Wichita Falls Economic Development Corporation Board with a term to expire 09/30/2024.

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

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

Nays: Councilor Jackson

- - - - -

Moved by Councilor Jackson to appoint Kevin Hunter to Place 5 on the Wichita Falls Economic Development Corporation Board.

Motion died for lack of second.

Moved by Councilor Smith to appoint Phyllis Cowling to Place 5 on the Wichita Falls Economic Development Corporation Board with a term to expire 09/30/2024.

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

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

Nays: Councilor Jackson

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Moved by Councilor Smith to appoint Tony Fidelie, Jr. to Place 1 on the 4B Sales Tax Corporation with a term to expire 07/31/2023.

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

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

Nays: Councilor Jackson

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Moved by Councilor Smith to appoint Rick Hatcher to Place 2 on the 4B Sales Tax Corporation Board with a term to expire 07/31/2023.

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

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

Nays: Councilor Jackson

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Moved by Councilor Smith to appoint Nicholas Schreiber to Place 5 on the 4B Sales Tax Corporation Board with a term to expire 07/31/2023.

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

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

Nays: Councilor Jackson

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Moved by Councilor Jackson to appoint Kevin Hunter to Place 7 on the 4B Sales Tax Corporation Board.

Motion died for a lack of second.

Moved by Councilor Smith to appoint Dave Clark to Place 7 on the 4B Sales Tax Corporation Board.

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

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

Nays: Councilor Jackson

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Moved by Councilor Smith to appoint Steven Sullwold to Place 9 on the Helen Farabee Centers Board of Trustees with a term to expire 08/31/23.

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

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

Nays: None

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Moved by Councilor Smith to appoint John Strenski to Place 4 on the Lake Wichita Revitalization Committee with a term to expire 07/31/2027.

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

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

Nays: None

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Moved by Councilor Smith to appoint Emily Adams to Place 6 and Suhua Huang to Place 7 on the Library Advisory Board with terms to expire 07/31/2024.

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

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

Nays: None

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Moved by Councilor Chenault to appoint Jessica Johnson to Place 3 on the Library Advisory Board with a term to expire 07/31/2024.

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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Moved by Councilor Chenault to appoint Dr. Michael Battaglino to an unexpired term for Place 6 on the Park Board with a term to expire 12/31/2022.

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

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

Nays: None

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**Item 13 –Adjourn**

Mayor Santellana adjourned the meeting at 11:13 a.m.

PASSED AND APPROVED this 3<sup>rd</sup> day of August 2021.

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Stephen L. Santellana, Mayor

ATTEST:

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Marie Balthrop, TRMC, MMC  
City Clerk



# **WICHITA FALLS METROPOLITAN PLANNING ORGANIZATION**

## **Technical Advisory Committee**

### **Minutes**

Thursday, April 8, 2021

#### ***Voting Members Present:***

Lin Barnett, Wichita Falls MPO, MPO Director, TAC Chairperson  
Blane Boswell, City of Wichita Falls, City Engineer  
Callan Coltharp, TxDOT, Area Engineer  
David Rohmer, TxDOT, Director of Operations  
Karen Montgomery-Gagne, City of Wichita Falls, Planning Administrator  
Scot Reaves, TxDOT, Director of TP&D  
Terry Floyd, Director of Development Services

#### ***MPO Staff:***

Jaimie Lee, Wichita Falls MPO, Transportation Planner III

#### ***Non-Voting Members Present:***

Mark McBurnett

#### ***Absent:***

Allan Moore, TxDOT, Director of Construction  
Larry Wilkinson, City of Wichita Falls, Traffic Superintendent

#### **I. Welcome & Introduction**

Mr. Barnett, TAC chairperson, called the meeting to order at 9:35 a.m. and welcomed everyone in attendance.

#### **II. Public Comment on Agenda and Non-Agenda Items**

Mr. Barnett asked for any public comments on agenda and non-agenda items. There were no public comments on agenda and non-agenda items.

#### **III. Review and Approval of the January 14, 2021 Technical Advisory Committee's (TAC) Meeting Minutes**

Mr. Barnett asked for any comments or corrections to the January 14, 2021 TAC meeting minutes. Receiving none, he asked for a motion to approve the minutes. Mr. Rohmer made the motion to approve. Mr. Floyd seconded the motion, which passed unanimously.

#### **IV. Review and Comment Regarding the January 28, 2021 Transportation Policy Committee's (TPC's) Meeting Minutes – No Action Required**

Mr. Barnett asked for comments on the January 28, 2021 TPC meeting minutes. Receiving none, the committee moved on to the next agenda item.

**V. Review and Recommendation to the Policy Board to Approve the 2022-2023 Unified Planning Work Program (UPWP)**

Mr. Barnett directed the committee's attention to the 2022-2023 Unified Planning Work Program (UPWP). Mr. Barnett stated this document would guide the work of WFMPO staff over the next biennium. He summarized minor updates to the subtasks. Mr. Barnett summarized the revisions made to the new UPWP stating in task 5.0 that WFMPO hired the consulting company Alliance Transportation Group to perform the Local Freight Study for the WFMPO area. Mr. Barnett discussed the Budget Summary Tables for FY 2022 and FY 2023 explaining the figures were estimates of forecasted funding levels and expenses. He asked for any comments or questions regarding the 2022-2023 Unified Planning Work Program. Receiving none, Mr. Barnett asked for a motion to forward the document to the Policy Board for their review and approval. Mr. Floyd made the motion to forward the document to the Policy Board. Mr. Reaves seconded the motion, which passed unanimously.

**VI. Review and Discussion of the FHWA Adjusted Urban Area Boundaries (AUAB) and Functional Classification (FC) as Proposed by the U.S. Census Bureau's 2020 Decennial Census**

Mr. Barnett directed the committee's attention to the presentation from the Federal Highway Administration. He stated the presentation was concerned with the proposed changes by the U.S. Census Bureau's 2020 Decennial Census. Mr. Barnett stated some of these changes could directly affect WFMPO. For example, an excerpt from the presentation: "Existing MPOs must expand their Metropolitan Planning Areas (MPAs) to include all territory in urban areas with populations of 50,000 or more, as determined by the Census Bureau and the results of the 2020 Decennial Census." Mr. Barnett discussed this in more detail at the meeting. He asked for any comments or questions regarding the presentation. Receiving none, the committee moved on to the next agenda item.

**VII. Other Business:**

**a. Discussion & Overview of Progress on Local Transportation Projects – City and TxDOT staff (Quarterly Review)**


**City:** Mr. Boswell reported Taft Blvd. widening was at 100% design. Hike and Bike Trail from Lake Wichita Park to Larry's Marina was at 100% design. Current under construction projects include 2021 Asphalt Street Rehab was 100% design. Maplewood extension construction 90% complete. Hike and Bike Trail from Loop 11 to Lucy Park 90% complete. Hike and Bike Trail from Barnett Road to Seymour Highway 85% complete.

**TxDOT:** Mr. Coltharp reported SS 325 reconfiguration of the interchange and FM 890 widening project is complete; US 281 south to 1954 widening is complete. US 287 pavement rehabilitation is complete. Hike and Bike trail from Seymour Highway to Barnett Road is 85% complete. FM 369 Drainage Ditch Enclosure is 50% complete. Loop 11 Mill and Overlay is delayed due to contractor in Abilene. FM 1954 realign intersection is in the early stages of construction. BU287J Seal Coat will begin in May of 2021. SH79 pavement repair and overlay is 50% complete. FM 369 pavement repairs, intersection improvements, and bridgework will begin next month.

- b. **MPO Quarterly Financial Report (1<sup>st</sup> Quarter – October, November, December)**  
Mr. Barnett reported on the 1<sup>st</sup> quarter expenses for the MPO. He stated that the MPO had spent 16.25% of its total allocation for FY 2021. Mr. Barnett asked for any comments or questions on the first quarter financial report. He received none.
- c. **Grouped TxDOT CSJ Projects Report**  
Ms. Lee reported on the 1<sup>st</sup> quarter grouped CSJ projects report. Ms. Lee discussed minor changes to the projects over the quarter.
- d. **Other Items**  
Mr. Barnett updated the committee about hiring Alliance Transportation Group to perform the Local Freight Study for the WFMPO area.

**VIII. Meeting Adjournment**

The meeting adjourned at 10:21 a.m.



Irvan F. "Lin" Barnett Jr.  
MPO Transportation Planning Director  
Wichita Falls MPO



# **THE ANIMAL SHELTER ADVISORY COMMITTEE (ASAC) MINUTES**

April 16, 2021

Animal Services Center  
1207 Hatton Road  
Wichita Falls, Texas

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## **COMMITTEE MEMBERS PRESENT:**

Nicki Bacon  
Leslie Harrelson  
Marvin Peevey  
Bryan Wade, D.V.M.

Animal Shelter Administrator  
Public Citizen  
Animal Welfare Organization  
Veterinarian

## **COMMITTEE MEMBERS ABSENCE:**

Angela Bakken  
Steve Jackson

Local Rabies Control Authority  
City Council Liaison

## **OTHERS PRESENT:**

Lou Kreidler

Director of Public Health

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## **I. CALL TO ORDER**

Nicki Bacon, Chair, called the meeting to order.

## **II. REVIEW & APPROVAL OF FEBRUARY MINUTES**

The minutes from the ASAC Meeting from February 21, 2021, were distributed and reviewed. Mrs. Harrelson made the motion to accept these minutes with a second by Dr. Wade. The motion was carried.

## **III. OLD BUSINESS**

None

## **IV. NEW BUSINESS**

Ms. Bacon continued with the shelter update and shelter numbers. Ms. Bacon stated that the live outcome rate for 2020 was 69%. Ms. Bacon stated that in 2019, the live outcome rate was 51%, which was a significant increase. Ms. Bacon stated that in 2020, the return to owner rate was 23%, and in 2019, the rate was 19%. In 2020, the number of animals sent to rescues, specifically cats and dogs, was 32%, and in 2019, the rate was 19%. Ms. Bacon thanked the rescue groups for stepping up in a big way. Ms. Bacon went on to state that in 2020, there were 683 dogs and cats that were euthanized which makes the percentage rate 31% of the animals that came into the shelter. In 2019, there were 1577 dogs and cats that were euthanized, making the percentage rate 49% of the animals that came into the shelter. The total percentage of dog and cat adoptions in 2020, was 14% compared to 2019 13%. Ms. Bacon stated that so far, for 2021, our live outcome rate is 74%. Ms. Bacon went on to say that obviously, that will change since we are only three months in, but we are hoping to keep the momentum going.

## THE ANIMAL SHELTER ADVISORY COMMITTEE (ASAC) MINUTES

April 16, 2021

Ms. Bacon stated that she went on and included the differences from 2019 to 2020. She said that there was a 13% increase in dogs and cats that went to rescue. There was a 4% increase in dogs and cats that were returned to their owners. There was a 1% increase in adoptions. Ms. Bacon stated, which is still a significant number. Mrs. Kreidler replied that we also were dealing with Covid. Ms. Bacon went on to say that the shelter euthanized 18% fewer animals in 2020 compared to 2019, and the live outcome rate increased 18%. Mrs. Bacon went on and stated that since 2018, the shelter has steadily decreased its euthanasia rate. Mrs. Bacon also stated that she hopes in 2021 and 2022, the shelter can reach its goal of a 90% live outcome rate. Mrs. Bacon went on and thanked the citizens and rescue groups stating that if it weren't for them, these numbers wouldn't have been possible. Mrs. Kreidler replied that even Animal Control had placed a big emphasis on returning animals home to their owners in the field, which has caused some consternation for some citizens due to the animal being pickup and being returned home. Mrs. Kreidler continued that she then has to explain that the first time the dog is picked up, we want to try to get that animal home. Mrs. Harrelson asked if the concerns are because a dog at large is supposed to be spayed and neutered. Mrs. Kreidler replied no, even in the field, they are required to be spayed and neutered. Mrs. Harrelson asked then where the consternation is coming from. Mrs. Kreidler replied because the animal was out, and they took it back home. Because if they were responsible pets owners, their dog wouldn't be out. Mrs. Kreidler said that nine times out of ten once I explain why we return the animal, they are okay.

Mrs. Harrelson asked, how do you think the first quarter of this year compares to the first quarter of last year? Ms. Bacon responded in January of 2020, we had brought in 225 cats and dogs, and this year we have brought in 184 cats and dogs. Mrs. Harrelson replied, so the shelter is still down. Ms. Bacon replied, yes, we are still down. Mrs. Harrelson replied that she was wondering since Covid didn't hit until March of last year. Mrs. Harrelson said that due to Covid, she expected to see that great progress for 2020 due to many places, Animal Services, and the community shutting down. So with the community not out there, picking up strays and trying to owner surrender has helped your numbers. Ms. Bacon stated we also changed the ordinance requiring citizens to make an appointment and then Covid shutting everything down made it even harder. Mrs. Harrelson stated she expected the numbers to look glorious, and they do. She was hoping that Animal Services can continue that phenomenal trend, and so far, it appears we are. Mrs. Harrelson then offered Ms. Bacon congratulations. Mrs. Bacon replied that was exciting.

Mrs. Bacon went on to say that the intake numbers for 2019 and 2020 were very comparable. Mrs. Harrelson replied that especially with the increase in what the rescues have pulled. Mrs. Kriedler stated that the rescues have been amazing. Mrs. Kreidler continued even with the 4% increase in adoptions since we require the citizens to make an appointment. Mrs. Harrelson replied, yes, it was harder. Mrs. Harrelson stated that they try to pull exclusively from Animal Services. But they got shut down because New York got shut down, so our number were less than she wanted them to be, and she was excited to see that others pick up their slack. Mrs. Kreidler replied, it's just been a very difficult year. Mrs. Harrelson replied that it really was but way to persevere and tell your team good job.

Ms. Bacon replied that she has sent out emails letting them know what a great job they were doing. She continued that the supervisory team is also trying to find ways to incentivize the Animal Care Officers to return the animals back to their owners out in the field because it keeps them out of the shelter, and those citizens are appreciative.

## THE ANIMAL SHELTER ADVISORY COMMITTEE (ASAC) MINUTES

April 16, 2021

Mrs. Harrelson asked would you ever consider a post promoting the positivity of Animal Control. She continued with that there is the whole privacy thing. Still, if someone was willing, maybe you could get a picture of just the dog itself and not of the owner. Stating that did you know that Animal Services would pick up your dog the first time and try to return it to you as long as it is properly tagged and they have that identifying information as a way to help educate the community and also as kind of an award.

Mrs. Bacon stated that it could be a discussion. My only concern would be citizens asking so why they are not having to pay to reclaim it. Mrs. Harrelson replied, so explain it. Put the post out there and state this is how we're trying to serve our community. If this is a first-time offense, we are not trying to make money off you. We are just trying to get the pet back to the home that lost it. Ms. Bacon replied that it is definitely a discussion. Mrs. Kriedler replied that she did agree that Animal Services should post some of their numbers. Mrs. Harrelson replied that she does think that Animal Control needs to toot their own horns more. Mrs. Kreider replied that she did agree that the numbers need to be posted. Ms. Bacon replied not just on the city's web page but on Facebook as well. Mrs. Kreider replied yes.

Mrs. Harrelson replied that people are quick to say that Animal Control doesn't do anything; they never help. I call them all the time they never respond, and nothing gets done. You could combat that by saying we issued this many permits this month. We issued this many tickets. We took in this many animals. We returned this many animals home. We sent this many animals to rescue. Anytime you can put facts out there, it will help. Mrs. Kreidler stated that posting our monthly numbers with some of the statistics that Ms. Bakken started keeping last year would be a great start. Ms. Bacon replied that she was 100% on board with that idea.

Ms. Bacon continued on to ordinance discussion. This pertains to our ordinance implementation and the things we've seen since we've changed our ordinances, and what is going on. So with our reclaim, we thought that after the second time, we shouldn't see any issues because the owner should have spayed or neutered their animals. What Animal Services is thinking that should be added to the ordinance is, and we are debating whether it should be the second or third time if the animal comes in and is still not neutered or spayed regardless of receiving citations, we hold the animal and take them to their spay and neuter appointments personally like we do now with adoptions. What are the committee's thoughts on that idea? Mrs. Harrelson stated that she would support animals being spayed or neutered, so that makes sense. Mrs. Harrelson asked Mrs. Bacon if there was a problem with compliance. So even though they are having to go a pre-pay somewhere they're just not following through. Ms. Bacon replied yes. Mrs. Harrelson stated that they see that. Mrs. Bowman, the Animal Care and Adoption Supervisor, sends them a list every week, and there are a lot of no-shows.

Ms. Bacon replied I know some veterinarians are not giving the citizen's their pre-pays back which I think is a good idea. That incentivizes them to keep their appointments, but it is still not enough. Mrs. Kreidler replied that when they pre-pay for their appointment and no-show, that it is still a cost for the veterinarian. Mr. Peevey stated that he thinks it should be after the second impound because anyone can have a family emergency, but if they miss that second time, there is no excuse. Mrs. Harrelson asked if there was any feedback from the city council on what they would go for. Mrs. Kreidler replied, we have

## THE ANIMAL SHELTER ADVISORY COMMITTEE (ASAC) MINUTES

April 16, 2021

not. This is the first decision discussion that we are having. Mrs. Harrelson advised that she would support it either way. Dr. Wade stated he would support the third time. Mr. Peevey stated that he thinks it will have an easier time passing the city council if it was the third impound. Ms. Bacon thanked the committee for their feedback.

Ms. Bacon continued with under section 14-452 of the city ordinance under the cruelty of animals section that Animal Services recently had a court case regarding the shelter. Ms. Bacon went on to further advise that the defendant's lawyer did notate that the ordinance stated the shelter shall be roofed. The ordinance does not say anything about gaps in the roof or the three solid walls or if the roof needed to be sturdy. Ms. Bacon advised that they were looking to reword that portion so that it reads that it must have three solid sides, a solid attached roof with no gaps, openings, and the like, and shall have a solid floor. Ms. Bacon asked if anyone had any other ideas for wording this portion of the ordinance because the defendant was contesting that they did have a roof. Mrs. Harrelson replied that a good lawyer is going to poke holes in anything, so you just have to try to be as bulletproof as possible and stated that she supported the wording. Mr. Peevey replied that he also supported the new wording.

Mrs. Kreidler asked Mrs. Harrelson if she would like to discuss the email, she sent to her after snowmageddon since they were discussing shelter about the animal being required to be brought in. Mrs. Harrelson replied yes. Then continued that her proposed ordinance changes would be that the animals would be brought in during extreme temperatures. Mrs. Harrelson then read that animals would be required to be inside during extreme weather conditions. The state law right now defines extreme temperatures as a heat advisory that has been issued by a local or state authority or jurisdiction—a hurricane, tropical storm, or tornado warning that has been issued by the national weather service. When the actual or effective outdoor temperature is below 32 degrees Fahrenheit or below, Mrs. Harrelson informed the committee that this was in line with what Animal Control can do already when it too cold or too hot outside. This also falls in line with the Tufts University chart. All the research I could find and I am sure that veterinarians can speak to this that there are no incidents of death or an animal freezing if the temperature is 44 or above, but when the temperature starts to get below 44 degrees depending on the body conditions of the pet. So you just can't say large dog or small dog because it could be a really fat, well cared for small dog or an emaciated, very sick large dog, and it has a less chance of surviving after the temperature is below 44 degrees. Mrs. Harrelson advised the committee that where she came up with bringing the animal in when it was below 44 degrees, and again this falls in line with Animal Services because right now, your current rules are if a pet is in a car and the temperature is below 45, or above 85 that's considered a danger. So I thought bringing the animals in at that time should just be part of the ordinance that we pursue. That way, we are not relying on Animal Services to try to determine if the animal is in danger or not. Also, animals outside in extreme weather conditions should be treated as imminent danger. That would give Animal Control a little more lead way with stepping foot on-premises if need be when seeing animals outside.

Mrs. Harrelson advised that she look up the enforcement for that situation. What I have written is that Animal Services has the right to seize animals in imminent danger when waiting on a warrant that could result in death. In fact, failure to provide aid could be argued as cruelty and would not bode well for us when we are trying to protect animals. Texas law deems cruel situations where a person must fail to act or fail to provide care to an animal. Failure to act or provide care rises to the level of cruelty



## THE ANIMAL SHELTER ADVISORY COMMITTEE (ASAC) MINUTES

April 16, 2021

when it involves failing to provide necessary care, food, shelter, or abandoning an animal. Necessary care, food, and shelter is statutorily a fine when food, care, or shelter that is required to maintain the animal is being withheld. Mrs. Harrelson stated that she thinks they could easily make a case for that. She continued with stepping onsite without a warrant. Arguments for trespassing could be met with the following. In situations where cruelly treated animals are in open view of neighbors or passersby, the courts have extended the open field doctrine.

The open field doctrine permits warrantless entry. The fourth amendment protects people, not places. When a person knowingly exposes to the public is not subject to the fourth amendment protection. So if you can see it and it is in plain cognitive view, it is not subject to the fourth amendment protection. So the Texas court has upheld those warrantless entries and seizures of cruelty-treated animals under the emergency doctrine. This doctrine states that seizures are allowable when there is a need to act immediately to protect life or prevent serious injury. So if the animal is in open view and you can see it through a chain-link fence or if you're in an alley and you can see the back yard, then it's not protected by the fourth amendment. So we could make a pretty strong case for that if that is something you wanted to pursue stated Mrs. Harrelson. Mrs. Kreidler asked Mrs. Harrelson to forward her that information so she could discuss it with legal. She went on to say that when Ms. Bacon was doing her research, she couldn't find any information. Ms. Bacon stated she even search Minnesota, and Chicago all of the areas that are known for extremely cold weather. Mrs. Harrelson stated that the North and the Midwest tend to be much more progressive with animals and animal welfare than we are. Our animals are animals, and we are shipping our animals to them because they do not have homeless animals or shelters full of animals. So it probably is not a problem for them. Mrs. Bacon informed the committee that there isn't a state law stating that an animal has to be brought in. She also stated she called the Texas Animal Safety Commission, and there was nothing stating that an animal had to be brought inside a home, but it did state it needed adequate shelter. Mrs. Harrelson replied adequate shelter in extreme weather. Mrs. Bacon then stated that it included the three solid sides, roof, and floor. There's a lot of things that we can do like Noah does or FEMA does is put out an advisory that states that this is how you can keep your animal safe during cold or hot weather. Mrs. Harrelson said that when the weather is below freezing for days and days on end, a dog will freeze in a dog house. The lip in front of an average dog house is four inches, and we received over a foot of snow. Mrs. Kreidler replied that they weren't saying that it was something that they wouldn't consider. There would just be barriers. That it would be difficult to pass as the dog riding in the truck. Mrs. Harrelson replied that she understood but didn't think they should table or back off on ensuring that animals have appropriate shelter. Because an animal staying outside in a dog house when it is below freezing for days on end is going to end up freezing. Ms. Bacon replied an option could be that during a freeze or colder weather like they have done in other cities where the weather is colder. The shelters had to be lifted off the ground. So that it is protected from the rain and the snow, those are things that we could look at as being part of inclement weather. Mrs. Harrelson replied that's how we need to approach it as in extended inclement weather. Mrs. Kreidler replied that we might have better success at 32 degrees instead of 44 degrees. Mrs. Harrelson replied that she knew that but with the Tufts body scale and all my research that stated 44 and below is unsafe. The state does define extreme weather conditions as 32 degrees and below. Mrs. Kreidler replied that might be more palatable for City Council.

Mrs. Harrelson replied that another option is given the citizens options that may not have a way to bring their animals inside. So we need to give them options, and I am willing to be one of those options



## THE ANIMAL SHELTER ADVISORY COMMITTEE (ASAC) MINUTES

April 16, 2021

like the Humane Society did this last time. Some people don't have heat for themselves or limited options of heat like a fireplace or a space heater. But if they do not have a way to provide adequate shelter for their animals, I would like for us as a community to have some options available. Mr. Peevey replied that looking at it from another perspective. With P.E.T.S and the Humane Society being non-profits, we need to be doing the legwork and looking at the expense. Because the city council is looking at it as tax dollars, so we would need a plan. Mrs. Harrelson stated that when there is a declaration of a natural disaster, then FEMA pitches in money so that could cover the cost. Some citizens didn't have water because their pipes froze, and there were places for people to go but not in place for the animals. I just think we should have a plan in place for the animals in that situation.

Mr. Peevey asked if the shelter had a generator. Mrs. Kreidler replied that, yes, Animal Services has a generator and that it doesn't supply power to the whole building, but it does supply power to the dog runs. Mrs. Harrelson stated that she was looking into getting a generator due to her clinic being shut down due to the weather.

Mrs. Bacon continued with the next item that they were working at changing is in the adoption portion. It was added that it was mandatory for all pets living currently in the home had to be microchipped. She explained that it has been a big barrier and has hindered some of the adoptions. Some applicants have said these are my pets, and I am not going to microchip them and have walked out. So we are just proposing to remove that portion in the ordinance which could help increase our adoptions. Mrs. Harrelson replied that she is okay with doing that. Mr. Peevey stated that he also agreed with removing that part of the ordinance. Dr. Wade stated that if removing it would be more beneficial to assisting with getting more adoptions, he agreed with removing that portion in the ordinance.

Mrs. Bacon informed the committee that the responsible pet ownership class was going well. That Animal Service has seen a lot of participation and that Animal Service has been able to return many pets back to their home due to the free or reduced cost. The Animal Care Officers are really pushing this course in the field when it comes to either writing a citation or mandating the class. They are mandating the class as an option. They have been utilizing the class as a great tool which has been very beneficial. Mrs. Kreidler asked if tickets have been issued for those that fail to show up to class. Ms. Bacon replied that they had issued citations for those failing to show for class. Mrs. Harrelson stated that she was glad to hear that the class was going well despite COVID and offered Ms. Bacons congratulations.

Mrs. Kreidler informed the committee that another new service that Animal Services were getting ready to start is that Mrs. Bowman, the Animal Care and Adoption Supervisor, was going to start animal behavior classes. So if a citizen adopts from us, they can take the class that goes over basic commands to help reduce adoption returns. We placed a fee with the class. It's five dollars per class because we feel like if they had to pay something, then they would be invested in the class. Another thing that we decided is if a foster has a dog from a rescue group, they can take the class for free. Mrs. Harrelson replied that she thought that was a great idea.

## THE ANIMAL SHELTER ADVISORY COMMITTEE (ASAC) MINUTES

April 16, 2021

### ADJOURN

No date was set for the next meeting in July. Mr. Peevey made the motion to adjourn. Dr. Wade seconded the motion to adjourn. The motion carried all were in favor.

*Nicki Bacon*

Nicki Bacon  
ASAC Chairman  
Animal Services Administrator

*7-21-21*

Date

*Steven Parady*

Steven Parady  
ASAC Recording Secretary  
Animal Services Sr. Admin Clerk

*July 19, 2021*

Date

**AMENDED MINUTES OF THE  
WICHITA FALLS ECONOMIC DEVELOPMENT CORPORATION**

**May 20, 2021**

**Present:**

Leo Lane, President	§	
David Toogood, Vice-President	§	Members
Phyllis Cowling, Secretary-Treasurer	§	
Brent Hillery	§	
Darron Leiker	§	
Stephen Santellana	§	Mayor
Paul Menzies, Assistant City Manager	§	City Administration
Blake Jurecek, Assistant City Manager	§	
James McKechnie, Deputy City Attorney	§	
Marie Balthrop, City Clerk	§	
Terry Floyd, Director of Development Services	§	
Russell Schreiber, Director of Public Works	§	
Jessica Williams, Chief Financial Officer	§	
Andrea Kidd, Public Information	§	
Linda Merrill, Recording Secretary	§	
Henry Florsheim, President and CEO	§	CCI
Travis Haggard, V.P., BR&E	§	
David Leezer, V.P, Business Attraction	§	
Karen Bivona, Office Manager	§	
Taylor Davis, Director, Talent Partnership	§	
Shay Jones, Director, Business Intelligence	§	

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**1. Call to Order**

Leo Lane called the meeting to order at 2:30 p.m.

**2. Strategic Discussion**

Henry Florsheim provided an update to the economic development strategy.

***School Facilities*** – Community-wide campaign to educate citizens on the importance of modern school facilities. The two recent votes on the school and athletic facilities closes out this catalyst in the short term.

***Best Practice Economic Development*** – Improve capabilities to respond to employer needs through Business Retention and Expansion headed by Travis Haggard. Permitting has been streamlined at the City. The inventory of ready sites and buildings has led to the improvements to be made at the Business Park.

***Align Legislative Agenda with Strategic Education Needs*** – The Chamber has developed a government affairs committee. The City and County also look out for upcoming legislation.

***Diversity Initiative*** – The steering committee has met via Zoom, and calls with diversity professionals in Dallas and Kansas City are scheduled.

***Talent Partnership*** – Taylor Davis runs this program, designed to enhance the local talent development pipeline. Those in that pipeline include military spouses, military members about to separate, veterans, and interns. The Circuit is a new emerging leader program with 60+ members.

***SAFB*** – SMAC continues its advocacy work, strategic planning and SWOT efforts. The main gate and transportation centers have strengthened the physical connection with the City.

***Live/Work/Play Downtown*** – DWFD handles marketing. Progress is being made on the development of the convention hotel. A business improvement district needs to be developed to fund infrastructure upgrades. The WFEDC has funded the unfilled Downtown Business Recruitment position for two years. He is unsure whether it is the right time for this position.

***Bike Friendly Community*** – This catalyst prioritized the Circle Trail, which is nearing completion. Wichita Falls is now a Bronze-level biking friendly community. The City has been putting bicycle graphics on city streets to remind drivers these are shared roads.

***Entrepreneurial Maker's Hub*** – No traction has been gained on this project, since the private partner who was going to take this on did not materialize.

There has been a lot of overall progress. It is time now to think about what happens next: keep pushing on these catalysts or update the strategy (internally or through a consulting firm). Mr. Lane acknowledged the success of these programs. He asked how Mr. Florsheim envisioned going forward. Mr. Florsheim said professional consultants are not vested in the community and thus would be more objective. Ms. Cowling said she is pleased to hear not only of the progress, but of Mr. Florsheim's inclination to update the strategic plan.

Mr. Lane asked the Board if they wish to give Mr. Florsheim instructions to come back with more information on hiring a consulting firm. Ms. Cowling said she would be in favor of that. Mr. Leiker said that effort could be included in the Chamber's budget request. Mr. Florsheim said he could not get information from the companies by the June 1 deadline to submit the budget proposal. Mr. Lane said a placeholder could be created for this funding.

### **3. Open Government Compliance Training with City Clerk**

City Clerk Marie Balthrop presented an update on open government compliance. She noted that each Board member had completed the mandatory open meetings and public information training.

She cautioned against the holding of any illegal meetings, in which the members knowingly engage in official business outside of an open meeting. In addition, she provided guidance on the use of private devices (*e.g.*, personal cell phones), as certain information contained thereon could be considered public information. The Board member has a duty to maintain the information, or furnish it to the City Clerk. Board members can be held personally liable if someone is injured by the disclosure of the certified agenda of executive sessions.

Finally, she turned to conflict of interest (such as real property business interests, vendor relationships, and property acquisition). She provided a handout to help the members determine whether they have such a conflict. Mr. Toogood asked how often such a form has to be submitted. Ms. Balthrop replied once is sufficient, unless there has been a change in circumstances - in which case, a new form would be required.

### **4. Update on Financing for Business Park Upgrades**

Jessica Williams provided an update on the bond issuance for the Business Park. The issuance of sales tax revenue bonds has been completed. They secured a strong rating of AA-,

which was upgraded to AA with the issuance of insurance. They are set to fund and close on June 3, and her department is prepared to receive those funds.

The total project fund is \$9.9 million, with the principal amount being \$8.7 million. The total issuance was \$10.1 million. The true interest cost, which is the interest paid by the Board, was only 2.847%. She is very pleased with all the numbers, adding that the annual payment would range between \$515,000-\$519,000 per year over the life of issue. A couple of days before the pricing, they talked with others in the market about insurance. A total of \$31,000 in insurance saved \$500,000 in total issuance cost.

Mr. Toogood asked if the City could hold the funds not being used and make substantial interest. Ms. Williams said funds may be invested, in accordance with the City's investment policy, and federal arbitrage rules.

## **5. Discussion and Possible Action Related to Clayton Homes Incentive Proposal**

Mr. Florsheim reminded the Board that it was 2017 when the 4A/Chamber first began discussions with Clayton Homes. The company signed a purchase agreement on the Atco building soon after.

The final TCEQ affidavit is due next week. Clayton Homes is ready to move forward. They intend to create 181 jobs in three years, with an annual total payroll close to \$9 million. They still intend to purchase the Atco building. The original purchase price of \$1.1 million has been reduced to \$1 million, as the company has had to purchase additional insurance.

The incentive package includes:

- \$7,500 cash per job, not to exceed \$1,357,500 (employed for six months)
- Training grant up to \$1,200 per employee if state funding does not materialize, not to exceed \$270,200
- Employee relocation assistance for a maximum of 20 employees at \$8,000, not to exceed \$160,000.

Per Mr. Leiker's request, a sample motion has been provided for the Board.

## **6. Discussion and Possible Action Related to a Correction to WFEDC Bylaws**

Mr. Florsheim said the first sentence of Article IV, Section 2 refers to "sixty (30) days." The bylaws need to be amended to reflect a uniform number of days.

## **7. Consent Agenda**

- a. Approval of minutes (3/18/21).** Mr. Toogood requested the year 2030 be changed to 2020 in the following sentence: "At this point, the Board is closer to collecting what was estimated for year 2030 receipts."
- b. Financial Report.** Paul Menzies said the May 2021 sales tax payment (reflective of March receipts) was up nearly 50% from the same month a year ago. Comparisons to two years ago (pre-Covid) still reflect a 37.7% increase. The increase is related to stimulus payments and a rise in the cost and demand for construction materials. The Board has an unreserved fund balance of \$7.4 million.

**c. Q1 Activity Reports.**

Mr. Lane said this was a great report. Ms. Cowling agreed that it was very helpful. Mr. Toogood said he realized it was a bit of a burden and time-consuming, but it served its purpose. He said a couple of things would be helpful to him: for each breakdown, include a brief statement related to progress on objectives and on the budget, as well as a declaration identifying the companies with performance agreements, including how far along they are under the terms of their agreement.

Ms. Cowling moved, seconded by David Toogood, to accept the consent agenda, as amended. The motion carried 5-0.

**8. Executive Session**

Mr. Lane adjourned the meeting into executive session at 3:17 p.m. pursuant to Texas Government Code §§551.072 and 551.087. He left the executive session while Panda Biotech was discussed. He announced the meeting back into regular session at 4:02 p.m. The subjects posted in the Notice of Meeting were deliberated, and no votes or further action was taken on the items in executive session.

**9. Motions**

***Clayton Homes***

David Toogood moved to amend the WFEDC budget to include funding of \$1,734,700, as presented in the project summary and incentive letter to assist Clayton Homes to develop a manufacturing facility in Wichita Falls. Seconded by Darron Leiker, the motion carried 5-0.

***Bylaws***

Brent Hillery moved to amend the WFEDC Bylaws at Article IV, Section 2, so that the number of days referenced in the first sentence reads as "thirty (30)." Seconded by Phyllis Cowling, the motion carried 5-0.

**10. Adjourn**

The meeting adjourned at 4:04 p.m.



\_\_\_\_\_  
Leo Lane, President

**MINUTES OF THE FIRE FIGHTERS AND POLICE OFFICERS'  
CIVIL SERVICE COMMISSION  
JUNE 3, 2021**

**Present:**

Jim Heiman, Chair	§	Commission Members
Laura Fidelie	§	
John Buckley	§	
Christi Klyn, Civil Service Director	§	
Julia Vasquez, First Assistant City Attorney	§	
Manuel Borrego, Police Chief	§	City Administration/Staff
Ken Prillaman, Fire Chief	§	
Guy Gilmore, Deputy Police Chief	§	
Donald Hughes, Deputy Fire Chief	§	
Brian Lester, Human Resources Supervisor	§	
Holly Morgan, HR/EBT Specialist	§	
Linda Merrill, Recording Secretary	§	
Daniel Ordoñez, Lieutenant	§	Wichita Falls Fire Department
Al Vitolo, Lieutenant	§	

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**1. Call to Order**

Chairman Heiman called the meeting to order at 11:00 a.m.

**2. Approval of Minutes (12/3/20)**

John Buckley moved for approval of the minutes. Seconded by Laura Fidelie, the motion carried 3-0.

**3. Review Appeals of the Fire Lieutenant Exam Administered on May 13, 2021.**

Question 76. *This appeal was withdrawn.*

**4. Review Appeals of the Fire Captain Exam Administered on May 13, 2021.**

Question 5. Stage of a fire at which all exposed combustible surfaces and objects within a compartment have been heated to their ignition temperature and ignite almost simultaneously is known as which of the following?

A. Ignition

B. Decay

**C. Flashover**

D. None of the above are correct.

This question was appealed by Lt. Dan Ordoñez. He said 'flashover' is not a stage of a fire; rather, it is an event. He asked the Commission to either accept more than one answer as correct, or to throw out the question. Commissioner Buckley moved that the Commission accept more than one answer as correct for Question 5. Seconded by Commissioner Fidelie, the motion carried 3-0.



Question 8. What Incident Scene Control Zone would you fine witnesses and family members of victims?

- A. Hot Zone
- B. Outer Boundary of Cold Zone**
- C. Warm Zone
- D. Inner Boundary of Cold Zone

The appellant of this question was not in attendance at the meeting. Commissioner Heiman said the word “fine” in the question made him think of dollars and cents. He asked the Commissioners for their input. Commissioner Buckley stated he shared that concern.

Lt. Al Vitolo spoke against this appeal. The test was the hardest the members have ever taken, but was well written. It tested not only verbatim memory, but the base theory behind what was being presented. He felt the typographical error should be disregarded, as the meaning of the sentence can be gleaned from knowing the concept.

Deputy City Attorney Julia Vasquez said the appeal of this question was not based on a misspelling, so that is outside the scope of what the Commission can consider in making their determination. The appeal states the source material does not specify inner or outer boundary of the cold zone. Commissioner Fidelie moved to sustain the answer key for Question 8. Seconded by Commissioner Buckley, the motion carried 3-0.

## **5. Report from Fire Chief**

Chief Ken Prillaman said the 68<sup>th</sup> Academy ended in May, with eight graduates. The 69<sup>th</sup> Academy started yesterday. The Department has five openings, and has made offers to 12, as five more retirements are anticipated by the end of August. A change in the department’s pension system has prompted some members to retire.

## **6. Report from Police Chief**

Chief Manuel Borrego thanked the Commission for their time. The Department’s last Academy had five graduates. During the last Commission meeting, he discussed moving to a row test for physical fitness. Having more than one eligibility list was also discussed. The Department has started a new Academy and is using the 200-meter row test. There were no issues. He did note that females had more success getting through this testing. They had two tests, so it was good to have two eligibility lists.

The Department is still short personnel. There are a few expected retirements coming up. There are 10 in this current Academy, plus one former deputy sheriff from the Metroplex who was put through a short Academy. He was sworn in today and will go into the FEO program. He will graduate with the 10 in the Academy when the time comes.

## **7. Adjourn**

The meeting adjourned at 11:15 a.m.

  
Jim Peter Heiman, Chairman



**MINUTES OF THE  
WICHITA FALLS ECONOMIC DEVELOPMENT CORPORATION**

**June 17, 2021**

**Present:**

Leo Lane, President	§	
David Toogood, Vice-President	§	WFEDC Members
Phyllis Cowling, Secretary-Treasurer	§	
Darron Leiker	§	
Stephen Santellana	§	Mayor and Council
Bobby Whiteley, Councilor at-Large	§	
Jeff Browning, City Councilor District 3	§	
Paul Menzies, Assistant City Manager	§	City Administration
Blake Jurecek, Assistant City Manager	§	
R. Kinley Heggland, Jr., City Attorney	§	
Terry Floyd, Director of Development Services	§	
Russell Schreiber, Director of Public Works	§	
Jessica Williams, Chief Financial Officer	§	
Andrea Kidd, Public Information	§	
Linda Merrill, Recording Secretary	§	
Henry Florsheim, President and CEO	§	CCI
Travis Haggard, V.P., BR&E	§	
David Leezer, V.P, Business Attraction	§	
Karen Bivona, Office Manager	§	
Katie Britt, Marketing Director	§	
Taylor Davis, Director, Talent Partnership	§	
Shay Jones, Director, Business Intelligence	§	
Jana Schmader, Executive Director	§	DWFD
Jeanette Charos, Marketing Director	§	
Scott Manley	§	i.d.e.a.WF
Jeannie Hilbers	§	
Kerry Maroney, President	§	Biggs & Mathews
Tom Taylor	§	
Lynn Walker	§	<i>Times Record News</i>

**Absent:**

Brent Hillery	§	WFEDC Member
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**1. Call to Order**

Leo Lane called the meeting to order at 2:30 p.m. He noted that Brent Hillery had to go to Oklahoma City this morning, but hoped to join the meeting later.

**2. Discussion/possible action related to third-party economic development contracts, including SMAC, Downtown Wichita Falls Development, I.d.e.a.WF and the Chamber**

**a. SMAC**

Glen Barham said SMAC is requesting the same amount as previous years (\$150,000).

***Summary:***

- More pledges for the capital campaign are expected, increasing the \$86,150 figure to \$93,500.
- 3.8% pay increase for his part-time assistant (to \$13.50/hour).
- Office space rental is renegotiated annually, at either +3% or the percentage change in the Urban Consumer Price Index.
- A slight rise in costs for telephone and internet service is anticipated.
- The travel budget is slightly lowered. He will attend a conference in Washington, D.C. next month, and will meet with Capitol Hill and Pentagon officials in the fall.
- The cook-out for airmen that was to be held this spring was postponed due to Covid. He hopes to have this event in September, combining it with the large event normally held in October.
- He would like to hold any unexpended funds in reserve in the event something comes along that would have a serious financial impact on the organization.

**b. DWFD**

Jana Schmader said DWFD's proposal is a continuation of the work done for the past 18 months. The request (\$106,500) is a reduction from last year.

***Summary:***

- They will begin traveling again for various conferences and seminars.
- Virtual property tours continue, with the drone videos furnished to different markets.
- In addition, they are working toward an Open House program, opening available properties for viewing at night and on weekends.
- Support services for downtown residential areas are being solicited, such as grocery stores, dry cleaners, retail, and more family entertainment.

Phyllis Cowling acknowledged that 2020-21 was an unusual period of time. She asked Ms. Schmader what she considered DWFD's key accomplishment in furtherance of economic development. Ms. Schmader replied the retention rate, as downtown only lost two businesses during the pandemic. Ms. Cowling asked what she would want that answer to be a year from now. Ms. Schmader said it would be for more inventory to be gone. She believes the Property Maintenance Code developed by the City might force the hand of some property owners to sell, and to sell at an economical asking price. She has no shortage of potential buyers.

Mr. Lane asked if DWFD would still be conducting festivals. Ms. Schmader replied that all festivals will be back in 2022.

**c. i.d.e.a.WF**

Scott Manley introduced Jeanie Hilbers, whose time is devoted 100% to this program. The request is for up to \$300,000, broken down into \$50,000 for administration and up to \$250,000 for cash awards in the form of cash for jobs.

***Summary:***

- They are mid-cycle at present, and the semi-finalists have turned in the first draft of their business plans.
- There are eight still in the running, but only one would be able to create primary jobs in the first year. The other seven will compete in the judge's choice category, and any funds paid to them will come from private sector donations.
- The final business plan is due August 18, and finalists will be named September 10.
- There is a need to find existing businesses that would add primary jobs. Their strategy going forward is to develop relationships with referral partners, commercial lenders, and small and medium manufacturers, and to market the competition to previous i.d.e.a.WF winners and prior WFEDC recipients, to work toward a continuous funding cycle.

Ms. Cowling asked the same question of Dr. Manley that she did of Ms. Schmader. Dr. Manley said they want to see multiple winners as their goal for 2022. They would like to give away prizes in the six figures in 2022. Mr. Lane agreed that would be the definition of success.

**d. Chamber of Commerce and Industry**

Henry Florsheim thanked the Board for allowing the Chamber to be its economic development partner.

***Summary:***

- David Leezer (Business Attraction) held 50 zoom calls this year with consultants, prospects, and Team Texas. He recently went to a business development expo and will continue to focus on site consultants, Team Texas, and trade shows.
- Travis Haggard (Business Retention and Expansion) develops relationships with local businesses. He is working with manufacturers to strengthen supply chains, and to provide soft skills training in conjunction with Vernon College. He is also pursuing a revolving loan program for projects ineligible for 4A or 4B funding.
- Katie Britt (Marketing) has an ongoing email campaign, telling stories about Wichita Falls, as well as *Made in the Falls* videos to highlight unique manufacturers. She rebuilt the Chamber website last year.
- Taylor Davis (Talent Partnership) is the Chamber's military liaison. She is working on a Talent Pipeline Management program with key manufacturers. She has completed an online platform to match interns and companies. Taylor and Shay Jones are leading the diversity equity and inclusion program.

- Shay Jones (Business Intelligence) gathers data and turns it in to research companies. That is how Wichita Falls shows up on rankings that show its low cost of living. She also manages the sites and buildings database.
- Karen Bivona (Office Manager) handles the drop box for all the pertinent 4A files. She also is in charge of project oversight and reconciliation.
- Henry Florsheim - his own job is to lead the effort to work with the consultant on the next step as has previously been discussed, oversee the staff, and ensure the money is handled responsibly.
- The downtown recruitment position remains unfilled. He awaits Board instructions on whether to proceed with filling it.
- The operational request reflects a 4% increase, for staffing, marketing, updated site and building database, the internship platform, and printed relocation guides.
- The Chamber operates on a calendar year, so its current contract runs through December. The proposed budget is \$100,000 under the 10% promotional cap.

**3. Strategic discussion and possible action related to annual board performance report and work plan**

Mr. Toogood said he has come up with a concept. The draft is not yet ready, but this could be discussed in executive session and perhaps be ready for a vote at the Board's next meeting.

**4. Discussion and possible action related to Eagle Railcar performance agreement**

Mr. Florsheim said Eagle Railcar moved here 7-8 years ago. During that time, they have entered into four performance agreements with the WFEDC, and have met every threshold. They are still meeting the criteria for Phases 1 and 2, but not for Phases 3 and 4, due to the Covid pandemic. They request a year's extension on those agreements.

**5. Discussion and possible action related to amendments to the relocation incentive**

Mr. Florsheim said Chamber and City staff revised the language for this incentive, making it easier for businesses to understand the requirements up front, and what types of documents can be used to prove change of residency.

**6. Discussion and possible action related to Panda Biotech performance agreement**

This item was discussed in executive session.

**7. Consider and take action to award bid and contract for the Wichita Falls Business Park Phase 1 – Water and Sewer Improvements to Blackrock Construction, in the amount of \$930,795.00, and authorizing the Board president to execute all related documents**

Russell Schreiber said the bids for Phase 1, water and sewer improvements, were estimated to be at \$1.2 million. They came in at just over \$930,000. Blackrock Construction was the lowest bidder. Kerry Maroney has experience with this group and thinks they are capable of completing the work. The City recommends this firm be awarded the contract.

**8. Consent Agenda**

- a. Approval of minutes (5/20/21).** Mr. Lane requested that it be noted that he left the room while Panda Biotech was being discussed during the executive session.
- b. Financial Report.** Paul Menzies said the June 2021 sales tax payment (April receipts) was up 33.5% from the same month a year ago. Comparisons to two years ago still reflect an 18.3% increase. The Board has an unreserved fund balance of \$5.2 million.

Mr. Leiker moved to approve the consent agenda, as amended. Seconded by Ms. Cowling, the motion carried 4-0.

There was a brief discussion on the DuPlooy Trucking agreement.

Mr. Leiker noted he would like to see a requirement added to performance agreements that companies be current on their taxes.

**9. Executive Session**

Mr. Lane adjourned the meeting into executive session at 3:15 p.m. pursuant to Texas Government Code §§551.072 and 551.087. He left the executive session during the discussion of Panda Biotech. He announced the meeting back into regular session at 4:57 p.m. The subjects posted in the Notice of Meeting were deliberated, and no votes or further action was taken on the items in executive session.

**10. Motions**

**Third-party economic development contracts**

Mr. Toogood moved to approve such contracts with SMAC, Downtown Wichita Falls Development, and i.d.e.a.WF, as submitted. Seconded by Ms. Cowling, the motion carried 4-0.

**Eagle Railcar**

Mr. Leiker moved to defer reconciliations for Performance Agreements for Phases 3 and 4 with Eagle Railcar for a period of one year, as proposed. Seconded by Mr. Toogood, the motion carried 4-0.

**Relocation Incentive**

Mr. Leiker moved to approve the amended relocation incentive, to reflect the proposed changes as presented by the Chamber. Seconded by Ms. Cowling, the motion carried 4-0.

**Wichita Falls Business Park Phase 1 – Water and Sewer Improvements**

Ms. Cowling moved to award the bid and contract for the Wichita Falls Business Park Phase 1, water and sewer improvements, to Blackrock Construction in the amount of \$930,795, and to authorize the President of the WFEDC to execute all related documents. Seconded by Mr. Toogood, the motion carried 4-0.

**11. Adjourn**

The meeting adjourned at 5:00 p.m.



Leo Lane, President

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**CITY COUNCIL AGENDA**  
**August 3, 2021**

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**ITEM/SUBJECT:** Conduct a public hearing and take action on an ordinance continuing in effect sections 78-61 through 78-63 of the Wichita Falls Code of Ordinances, which provide a Juvenile Curfew, and providing a penalty of up to \$500 upon violation.

**INITIATING DEPT:** Legal

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**STRATEGIC GOAL:** Efficiently Deliver City Services

**STRATEGIC OBJECTIVE:** Practice Effective Governance

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**COMMENTARY:**

- August 7, 2018 - The City's juvenile curfew ordinance was last continued;
- July 20, 2021 – City Council conducted the required first public hearing;
- August 3, 2021 – second required public hearing on juvenile curfew ordinance and consideration by City Council to abolish, continue, or modify the ordinance.

Texas Local Gov't Code §370.002, Review of Juvenile Curfew Order or Ordinance, provides:

(a) Before the third anniversary of the date of adoption of a juvenile curfew ordinance by a general-law municipality or a home-rule municipality or an order of a county commissioners' court, and every third year thereafter, the governing body of the general-law municipality or home-rule municipality or the commissioners court of the county shall:

- (1) review the ordinance or order's effects on the community and on problems the ordinance or order was intended to remedy;
- (2) conduct public hearings on the need to continue the ordinance or order; and
- (3) abolish, continue, or modify the ordinance or order.

(b) Failure to act in accordance with Subsections (a)(1)-(3) shall cause the ordinance or order to expire.

Staff recommends the City Council approve the attached ordinance continuing the existing Juvenile Curfew regulations.

☒ City Attorney

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**ASSOCIATED INFORMATION:** Existing Curfew Ordinance

☒ Budget Office Review

☒ City Attorney Review

☒ City Manager Approval

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## ARTICLE IV. - CURFEW FOR MINORS

### Sec. 78-61. - Definitions.

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

Curfew hours means:

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday, until 6:00 a.m. of the following day; and
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term "emergency" includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment means any privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

Guardian means:

- (1) A person who, under court order, is the guardian of the person of a minor; or
- (2) A public or private agency with which a minor has been placed by a court.

Minor means any person under 17 years of age.

Operator means any individual, firm, association, partnership, or corporation, operating, managing, or conducting any establishment. The term "operator" includes the members or partners of an association or partnership and the officers of a corporation.

Parent means a person who is:

- (1) A natural parent, adoptive parent, or step-parent of another person; or
- (2) At least 18 years of age and authorized by a parent or guardian in writing to have the care and custody of a minor.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Remain means to:

- (1) Linger or stay; or
- (2) Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

Serious bodily injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(Code 1966, § 20-11(a); Ord. No. 22-2001, § 1, 3-12-2001)

**Cross reference**— Definitions generally, § 1-2.

Sec. 78-62. - Unlawful conduct and defenses.

- (a) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.
- (b) A parent or guardian of a minor commits an offense if he knowingly permits or by insufficient control allows the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.
- (c) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.
- (d) It is a defense to prosecution pursuant to this section that the minor was:
  - (1) Accompanied by the minor's parent or guardian;
  - (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - (3) In a motor vehicle involved in interstate travel;
  - (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
  - (5) Involved in an emergency;
  - (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
  - (7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor going to or returning home from, without any detour or stop;
  - (8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly;
  - (9) Married or had been married or had disabilities of minority removed in accordance with the Texas Family Code; or
  - (10) Attending an activity supervised by adult sponsors taking responsibility for the minor and each minor has written permission from a parent or guardian to attend the activity; the activity is supervised by an adult sponsor throughout the length of the activity so that a minor may not leave the premises or establishment where the activity is held without a parent, guardian or other adult individual to whom a parent or guardian has given written permission to take the minor from the activity's premises. All ingress and egress to the facility must be controlled by the adult sponsor throughout the duration of the activity to ensure that all minors are in the premises where the activity is held.



- (e) It is a defense to prosecution under subsection (c) of this section that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(Code 1966, § 20-11(b))

Sec. 78-63. - Enforcement.

Before taking any enforcement action under this division, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this division unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense is present.

(Code 1966, § 20-11(d))

Secs. 78-64—78-80. - Reserved.

Ordinance No. \_\_\_\_\_

**Ordinance continuing in effect Sections 78-61 through 78-63 of the Wichita Falls Code of Ordinances, which provide a Juvenile Curfew, and providing a penalty of up to \$500 upon violation**

WHEREAS, Sections 78-61 through 78-63 of the Wichita Falls Code of Ordinances provide a juvenile curfew ordinance for Wichita Falls; and,

WHEREAS, Texas Local Government Code §370.002 requires that the City Council review its curfew ordinance before the third anniversary of the date of its adoption, and every third year thereafter, to determine its effects on the community, then move to formally abolish, continue, or modify the ordinance; and,

WHEREAS, on August 7, 2018, the City Council last continued the City's juvenile curfew ordinance; and,

WHEREAS, the City Council has conducted two public hearings regarding the merits of the juvenile curfew ordinance and has determined it is in the best interests of the health, safety and welfare of its citizens to continue this ordinance.

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

1. Sections 78-61 through 78-63 of the Wichita Falls Code of Ordinances are hereby continued in full force and effect.

2. Violations of this ordinance shall be punishable by a penalty of up to \$500 and as provided by Section 1-14 of the Wichita Falls Code of Ordinances.

PASSED AND APPROVED this the 3<sup>rd</sup> day of August, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

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**CITY COUNCIL AGENDA**  
**August 3, 2021**

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**ITEM/SUBJECT:** Public Hearing concerning designation of Reinvestment Zone at 2400 Burkburnett Road, Wichita Falls, Texas.

**INITIATING DEPT:** Legal

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**STRATEGIC GOAL:** Accelerate Economic Growth

**STRATEGIC OBJECTIVE:** Aggressively Pursue Recruitment of High-Value Businesses

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**COMMENTARY:** CMH Manufacturing, Inc. (Clayton Homes), is a Berkshire Hathaway company that builds manufactured housing and modular homes. Its corporate office is located in Tennessee.

Clayton Homes is purchasing the former Atco building at 2400 Burkburnett Road for \$1 million and proposes to invest approximately \$15 million into its operations here, as well as create 181 new full-time positions.

Prior to executing a tax abatement agreement, the City must establish a reinvestment zone. Prior to establishing a reinvestment zone, the City must publish notice of and conduct this Public Hearing. The proposed Reinvestment Zone to be discussed in this public hearing is better described in **Exhibits A and A-1**.

At least 7 days prior to this action, the City published the following notification of this action:

The Wichita Falls City Council will hold a public hearing in the Council Chambers of the Memorial Auditorium building at 1300 7<sup>th</sup> Street on August 3, 2021, beginning at 8:30 a.m. for the purpose of: (1) considering designating, as a reinvestment zone, the following property: 2400 Burkburnett Road; (2) determining eligibility of zones for tax abatement; and (3) finding that the improvements sought are feasible, practical, and would be a benefit to the zone after the expiration of the tax abatement agreement under Texas Tax Code §312.204.

It should be noted that the proposed tax abatement agreement for the company is for 10 years. At the conclusion of the ten years, the manufacturing facility will be required to make a tax payment of 100% of the taxable value of the property. The County will be asked to follow the same abatement terms of their share of property taxes, as well. The final tax abatement would be approved at a subsequent meeting assuming other agreements for this public/private partnership are fully reviewed and have the support of both parties.

During this public hearing, the Council will be asked to make the following findings:

- (1) The improvements sought, a manufacturing facility, are feasible and practical and would be a benefit to the zone after the expiration of the tax abatement agreement;
- (2) The City's criteria for tax abatement are met as set out by Resolution 5-2020 (as shown on **Exhibit B**), and the designation of the zone is reasonably likely to contribute to the retention or expansion of primary employment or to attract major capital investment that will benefit the City's economic development;
- (3) The building and operation of this manufacturing facility will have a secondary impact, through the use of local contractors and service businesses, on the local economy;
- (4) Proper notice was given of this public hearing to the presiding officers of Wichita County and the Wichita Falls Independent School District; and,
- (5) Notice of this public hearing was published in the *Times Record News*, a paper of general circulation, on July 21, 2021, a date that was no later than the 7<sup>th</sup> day before this hearing.

Staff recommends the City Council conducts the public hearing to receive comments. No action is required on this item.

☒ **City Attorney**

☒ **Assistant City Manager**

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**ASSOCIATED INFORMATION:** Real Property Description; Map of 2400 Burkburnett Road; Resolution 05-2020 attached.

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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**Exhibit A**  
**Real Property Description**

**Tract 1:**

Field Notes of 31.01 acres being all of Block 4 and Block 5, Unit Two, Arrowhead Industrial District, and known as 2400 Burkburnett Road, Wichita Falls, Wichita County, Texas, and described as follows:

BEGINNING at a 3/8-inch iron rod found at the Northwest corner of Block 4, Unit Two, Arrowhead Industrial District, as shown on the plat of record in Volume 21, Pages 21-22, Wichita County Plat Records, a fire hydrant on the East line of the Old Burk Road bears on foot West from this iron rod;

THENCE N 72° 01' E 299.55 feet to a two-inch pipe for a corner, a three-inch pipe fence corner bears North nine-tenths of a foot and East three-tenths of a foot;

THENCE N 17° 57' W 201.42 feet to a three-inch pipe fence corner post for a corner;

THENCE N 71° 51' E 826.76 feet (824.07 feet record) to a 3/8-inch iron rod found on the West line of Burkburnett Road (State Highway 240), a three-inch pipe fence corner post bears South 71° 51' West 7/10 of a foot;

THENCE S 23° 30' 24" E 1,114.04 feet along the West line of the Burkburnett Road to an iron rod set at the beginning of a curve to the right, a power pole with an aluminum tag marked 7,980 bears South 30° East 18.4 feet;

THENCE in a Southeasterly direction with the curve to the right having an arc length of 290.66 feet, a radius of 2,666.71 feet, a central angle of 6° 14' 42", the chord bears S 20° 23' E 290.52 feet to a 1/2-inch iron rod set for the Southeast corner of Block 5, Unit Two Arrowhead Industrial District, as shown on the Plat of Record in Volume 27, Pages 326-327, Wichita County Plat Records;

THENCE N 89° 45' W 1,310.20 feet (1,317.98 feet record) along the South line of Block 5 to a 1/2-inch iron rod found on the East line of the Old Burk Road for the Southwest corner of this tract;

THENCE N 18° 05' W along the East line of the Old Burk Road at 264.1 feet pass a three-inch pipe fence corner post, in all a total distance of 785.36 feet to the Place of Beginning and containing 31.01 acres of land. The bearings in these Field Notes are NAD 83 Grid from Solar Observations.

**Tract 2:**

Field Notes of 1.11 acres out of the M. Carbajal Survey, Abstract 44, Wichita County, Texas, and described as follows:

BEGINNING at a ½-inch iron rod found on the West line of the Old Burk Road, said iron rod bears S 18° 05' E 915.49 feet to the intersection of the North line of Pleasant View Road and the West line of the Old Burk Road, also a 3/8-inch iron rod at the Northwest corner of Block 4, Unit Two Arrowhead Industrial District bears N 18° 05' W 338.67 feet and N 71° 55' E 70.0 feet;

THENCE S 18° 05' E 270.0 feet along the West line of the road to a ½-inch iron rod found for the Southwest corner of this tract, a 3/8-inch iron rod found on the North side of a gravel driveway bears South 19.3 feet and East 2.1 feet;

THENCE with a curve to the right in a Northwesterly direction having an arc length of 421.42 feet, a radius of 790.31 feet, a central angle of 30° 33' 09", the chord bears N 52° 29' 42" W 416.45 feet to a bridge spike found on the East line of the Wichita, Tillman and Jackson Railroad;

THENCE N 16° 28' W 126.58 feet along the East line of the Railroad to a ½-inch iron rod set for the Northwest corner of this tract;

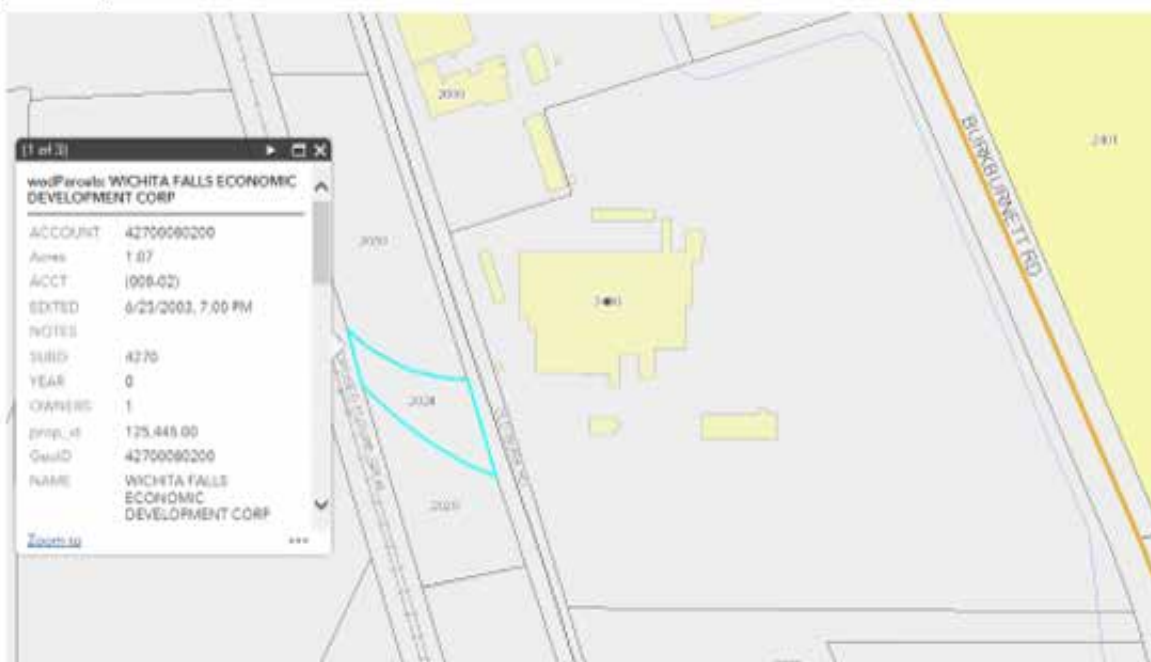
THENCE with a curve to the left in a southeasterly direction having an arc length of 313.98 feet, a radius of 405.66 feet, a central angle of 44° 20' 51", the chord bears S 67° 16' 54" E 306.20 feet to the Place of Beginning and containing 1.11 acres of land. The bearings in these field notes are NAD 83 Grid bearings from Solar Observations.

## Exhibit A-1

### Tract 1



### Tract 2



## **Exhibit B**

### **Resolution No. 05-2020**

#### **Resolution declaring the City of Wichita Falls' eligibility and intention to participate in the Texas Tax Abatement Program to promote development and redevelopment and adopt guidelines and criteria for tax abatement in the City of Wichita Falls**

WHEREAS, the City Council of the City of Wichita Falls, Texas, desires to promote the development/redevelopment of certain contiguous geographic areas within its jurisdiction; and,

WHEREAS, the City of Wichita Falls, Texas, is authorized to enter into Tax Abatement Agreements for commercial-industrial or residential purposes, as authorized by Chapter 312 of the Texas Tax Code; and,

WHEREAS, the Texas Tax Code requires the City of Wichita Falls, Texas, to establish guidelines and create criteria for the designation of reinvestment zones, and to enter into Tax Abatement Agreements.

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

1. The City of Wichita Falls, Texas, declares it is eligible for and intends to participate in a Tax Abatement Program.
2. The City of Wichita Falls, Texas, hereby adopts the following Guidelines and Criteria for Tax Abatement for use in the City's Tax Abatement Programs:
  - (1) The City Council of the City of Wichita Falls shall have the right, granted under Texas statutes, to approve or disapprove the creation of any recommended Tax Reinvestment Zone.
  - (2) The Tax Reinvestment Zone must be reasonably likely to contribute to the retention or expansion of primary employment or attract major capital investment that will benefit the City's economic development.
  - (3) The Tax Reinvestment Zone authorization granted by the City Council must meet all criteria established by the authorizing legislation.
  - (4) The Tax Reinvestment Zone must not require extraordinary capital improvement financing by the City.
  - (5) The Tax Reinvestment Zone applicant must have a successful business operating history of at least one year in the community or municipal references establishing successful operations.
  - (6) The Tax Reinvestment Zone applicant must have a secondary



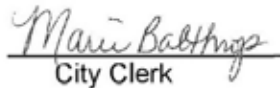
impact, through the use of local contractors and service businesses, on the local economy.

- (7) The agreement to create Tax Reinvestment Zones will not exceed the maximum period allowed by law of 10 years.
- (8) The agreement to create Tax Reinvestment Zones will pro-rate taxes on property improvements not less than 10%, nor more than 100%.
- (9) The City Council reserves the right to negotiate any other provisions with an individual business allowed by law.

PASSED AND APPROVED this the 21<sup>st</sup> day of January, 2020.

  
MAYOR

ATTEST:

  
City Clerk

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**CITY COUNCIL AGENDA**  
**August 3, 2021**

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**ITEM/SUBJECT:** Ordinance designating property as a Reinvestment Zone that is located at 2400 Burkburnett Road in Wichita Falls, Texas; providing for severability; and providing an effective date.

**INITIATING DEPT:** Legal

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**STRATEGIC GOAL:** Accelerate Economic Growth

**STRATEGIC OBJECTIVE:** Aggressively Pursue Recruitment of High-Value Businesses

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**COMMENTARY:** CMH Manufacturing, Inc. (Clayton Homes), is a Berkshire Hathaway company that builds manufactured housing and modular homes. Its corporate office is located in Tennessee.

Clayton Homes is purchasing the former Atco building for \$1 million and proposes to invest approximately \$15 million into its operations here, as well as create 181 new full-time positions.

Further, this company will spur new commercial development in and around a possible reinvestment zone. As such, the City wishes to incentivize development in and around the area.

State law requires that, prior to entering a tax abatement agreement, a city must adopt Guidelines and Criteria and establish a Reinvestment Zone (this item). State law also requires, prior to establishing a Reinvestment Zone, that a city must hold a public hearing, publish notice of said hearing, and mail notice of said hearing to the other taxing entities in the area of the proposed reinvestment zone (previous item). If this ordinance is approved, the City will have completed these prerequisites and staff will prepare a proposed tax abatement agreement to be considered by the City Council at a future date.

Staff recommends approval of the ordinance.

☒ **City Attorney**

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**ASSOCIATED INFORMATION:** Ordinance; Real Property Description; Map of 2400 Burkburnett Road; Resolution 05-2020 attached.

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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**Ordinance No. \_\_\_\_\_**

**Ordinance designating property as a Reinvestment Zone that is located at 2400 Burkburnett Road in Wichita Falls, Texas, providing for severability; and providing an effective date**

WHEREAS, the City Council of the City of Wichita Falls, Texas (the "City") desires to promote the development or redevelopment of a certain contiguous geographic area within its jurisdiction by the creation of a Reinvestment Zone, as codified in Chapter 312 of the Texas Tax Code and known as the Property Redevelopment and Tax Abatement Act, (the "Act"); and,

WHEREAS, a public hearing before the City Council was held on August 3, 2021, being at least 7 days after the date of publication of the notice of such public hearing in a newspaper of general circulation in the City of Wichita Falls; and,

WHEREAS, the City has called a public hearing and published notice of such public hearing, and has properly notified the proper officials of Wichita County and the Wichita Falls Independent School District, as required by the Act; and,

WHEREAS, upon such hearing being convened, there was presented proper proof and evidence that notices of such hearing had been published and mailed as described above; and,

WHEREAS, the City, at such hearing, invited any interested person, or his attorney, to appear and contend for or against the creation of the Reinvestment Zone, which includes the property known as (Tract 1) 31.01 acres being all of Block 4 and Block 5, Unit Two, Arrowhead Industrial District, and known as 2400 Burkburnett Road, Wichita Falls, Wichita County, Texas; and (Tract 2) 1.11 acres out of the M. Carbajal Survey, Abstract 44, Wichita County, Texas, according to the Plat in Volume 2916, Page 842, Wichita County Plat Records, owned by the Wichita Falls Economic Development Corporation, and which is depicted in Exhibit A as the "Reinvestment Zone"; and,

WHEREAS, all owners of property located within the proposed Reinvestment Zone, and all other taxing units and other interested persons, were given the opportunity at such public hearing to protest the creation of the proposed Reinvestment Zone or the inclusion of their property in such Reinvestment Zone; and,

WHEREAS, the proponents of the Reinvestment Zone offered evidence, both oral and documentary, in favor of all of the foregoing matters relating to the creation of the Reinvestment Zone; and,

WHEREAS, after considering all testimony and evidence offered at the public hearing, the City Council finds that improvements in the Reinvestment Zone will enhance significantly the value of all taxable real property in the Zone, will be of general benefit to the City of Wichita Falls, and that it will be in the public interest to pass this ordinance creating a Reinvestment Zone.

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

1. In accordance with Chapter 312 of the Texas Tax Code, the City has held a public hearing in this matter and adopts the findings herein.
2. The City, after conducting a public hearing and having heard evidence and testimony, has made the following findings and determinations based on the evidence and testimony presented to it:
  - a. That the public hearing on adoption of the Reinvestment Zone has been properly called, held, and conducted, and that notice of such hearing has been published as required by law;
  - b. That the City has jurisdiction to hold and conduct this public hearing on the creation of the proposed Reinvestment Zone, pursuant to the Act;
  - c. That creation of the proposed Reinvestment Zone will result in benefits to the City, its residents and property owners, and to the property, residents and property owners in the Reinvestment Zone;
  - d. That the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the City after the expiration of an agreement entered into under Section 312.204 of the Act;
  - e. That the improvements sought, a manufacturing facility, are feasible and practical and would be a benefit to the zone after the expiration of the tax abatement agreement;
  - f. That the City's criteria for tax abatement are met as set out by Resolution 5-2020 (as shown on **Exhibit B**) and the designation of the zone is reasonably likely to contribute to the retention or expansion of primary employment or to attract major capital investment that will benefit the City's economic development;
  - g. That the building and operation of a manufacturing facility will have a secondary impact, through the use of local contractors and service businesses, on the local economy;
  - h. That proper notice was given of this public hearing to the presiding officers of Wichita County and the Wichita Falls Independent School District; and,
  - i. That notice of this public hearing was published in the *Times Record News*, a paper of general circulation on July 21, 2021, a date that was no later than the 7<sup>th</sup> day before this hearing.

3. The City hereby creates a Reinvestment Zone over the area described in **Exhibits A and A-1**, and such Reinvestment Zone shall hereafter be identified as the **Clayton Homes Reinvestment Zone**, (the “Zone”).
  4. The Zone is eligible for commercial-industrial tax abatement.
  5. The operation of the Reinvestment Zone shall commence immediately upon passage of this ordinance for a period of **5** years or may terminate sooner by subsequent ordinance.
  6. A written agreement(s) as provided in the Act, with the owners of the property located within the Reinvestment Zone will be presented to City Council for approval, and the written agreement shall provide an exemption from taxation for the increased value in the real and/or personal property in an amount of up to 100% of the increased value. The City Attorney is hereby authorized to deliver notice of said agreement to the other taxing entities as provided by the Act.
  7. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this ordinance.
  8. The contents of the notice of public hearing, which was held before the City Council on this date, and the publication of notices thereof as required by law, are hereby ratified, approved, and confirmed.
  9. This ordinance shall take effect September 3, 2021, and it is so ordained.
- PASSED AND APPROVED this the 3<sup>rd</sup> day of August, 2021.

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MAYOR

ATTEST:

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City Clerk

**Exhibit A  
Real Property Description**

**Tract 1:**

Field Notes of 31.01 acres being all of Block 4 and Block 5, Unit Two, Arrowhead Industrial District, and known as 2400 Burkburnett Road, Wichita Falls, Wichita County, Texas, and described as follows:

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**Tract 2:**

Field Notes of 1.11 acres out of the M. Carbajal Survey, Abstract 44, Wichita County, Texas, and described as follows:

BEGINNING at a 1/2-inch iron rod found on the West line of the Old Burk Road, said iron rod bears S 18° 05' E 915.49 feet to the intersection of the North line of Pleasant View Road and the West line of the Old Burk Road, also a 3/8-inch iron rod at the Northwest corner of Block 4, Unit Two Arrowhead Industrial District bears N 18° 05' W 338.67 feet and N 71° 55' E 70.0 feet;

## EXHIBIT A

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THENCE with a curve to the right in a Northwesterly direction having an arc length of 421.42 feet, a radius of 790.31 feet, a central angle of 30° 33' 09", the chord bears N 52° 29' 42" W 416.45 feet to a bridge spike found on the East line of the Wichita, Tillman and Jackson Railroad;

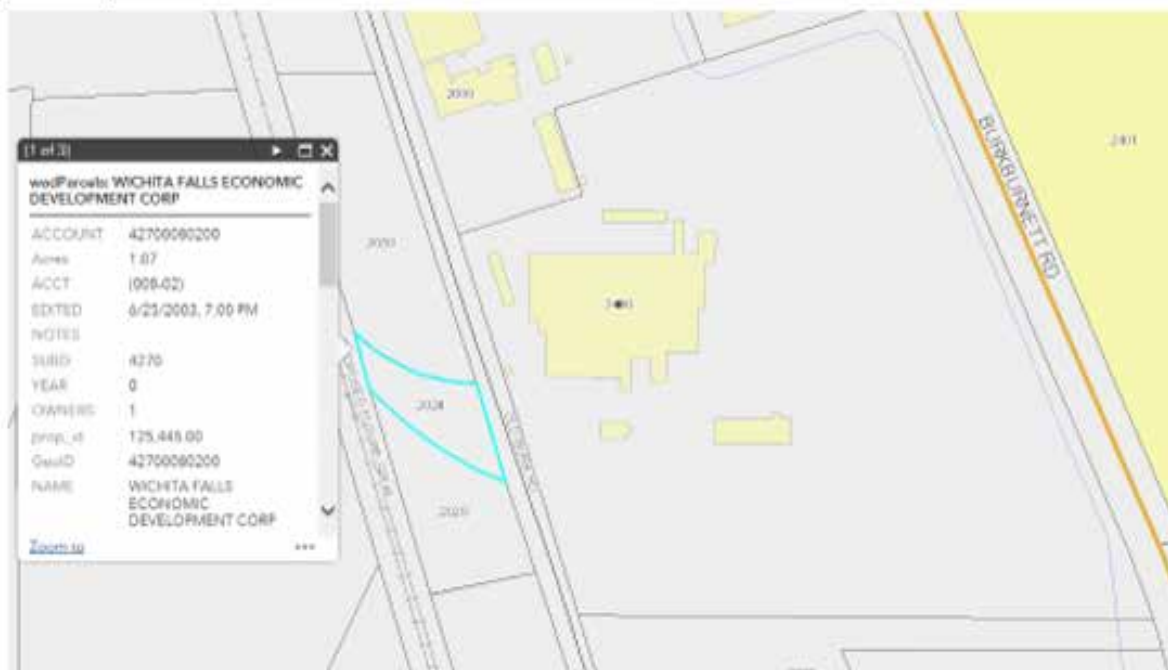
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**Tract 1**



**Tract 2**





**Resolution No. 05-2020**

**Resolution declaring the City of Wichita Falls' eligibility and intention to participate in the Texas Tax Abatement Program to promote development and redevelopment and adopt guidelines and criteria for tax abatement in the City of Wichita Falls**

WHEREAS, the City Council of the City of Wichita Falls, Texas, desires to promote the development/redevelopment of certain contiguous geographic areas within its jurisdiction; and,

WHEREAS, the City of Wichita Falls, Texas, is authorized to enter into Tax Abatement Agreements for commercial-industrial or residential purposes, as authorized by Chapter 312 of the Texas Tax Code; and,

WHEREAS, the Texas Tax Code requires the City of Wichita Falls, Texas, to establish guidelines and create criteria for the designation of reinvestment zones, and to enter into Tax Abatement Agreements.

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

1. The City of Wichita Falls, Texas, declares it is eligible for and intends to participate in a Tax Abatement Program.
2. The City of Wichita Falls, Texas, hereby adopts the following Guidelines and Criteria for Tax Abatement for use in the City's Tax Abatement Programs:
  - (1) The City Council of the City of Wichita Falls shall have the right, granted under Texas statutes, to approve or disapprove the creation of any recommended Tax Reinvestment Zone.
  - (2) The Tax Reinvestment Zone must be reasonably likely to contribute to the retention or expansion of primary employment or attract major capital investment that will benefit the City's economic development.
  - (3) The Tax Reinvestment Zone authorization granted by the City Council must meet all criteria established by the authorizing legislation.
  - (4) The Tax Reinvestment Zone must not require extraordinary capital improvement financing by the City.
  - (5) The Tax Reinvestment Zone applicant must have a successful business operating history of at least one year in the community or municipal references establishing successful operations.
  - (6) The Tax Reinvestment Zone applicant must have a secondary

## EXHIBIT B

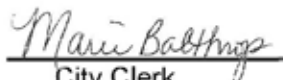
impact, through the use of local contractors and service businesses, on the local economy.

- (7) The agreement to create Tax Reinvestment Zones will not exceed the maximum period allowed by law of 10 years.
- (8) The agreement to create Tax Reinvestment Zones will pro-rate taxes on property improvements not less than 10%, nor more than 100%.
- (9) The City Council reserves the right to negotiate any other provisions with an individual business allowed by law.

PASSED AND APPROVED this the 21<sup>st</sup> day of January, 2020.

  
MAYOR

ATTEST:

  
City Clerk

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**CITY COUNCIL AGENDA**  
**August 3, 2021**

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**ITEM/SUBJECT:** Consider and adopt an Ordinance authorizing the issuance of City of Wichita Falls, Texas, General Obligation Refunding Bonds, Taxable Series 2021; establishing procedures and delegating authority for the sale and delivery of the bonds; providing an effective date; and enacting other provisions relating to the subject.

**INITIATING DEPT:** Finance

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**STRATEGIC GOAL:** Efficiently Deliver City Services

**STRATEGIC OBJECTIVE:** Practice Effective Governance

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**COMMENTARY:** Periodically, the City, through its financial advisor (Sentry Management) considers refinancing outstanding debt if that debt can be sold at lower interest rates. At present, we have three outstanding debt issuances that may be refunded (refinanced) to achieve savings to the City.

This ordinance addresses two refunding opportunities for the City, the 2010 Series and the 2013A series. The 2010 Series was issued by the City for the purchase of the Castaway Cove Waterpark and is paid for by the 4B Sales Tax Corporation. The 2013A Series was issued by the City for the completion of the Direct Potable Reuse Project and is paid with Water & Sewer Fund Revenues.

Sentry Management has analyzed the financial market and determined that this refunding will achieve a savings over the remaining life of the bonds. It is estimated that the City will save \$681,211 in net present value, a savings of 9.77%. The refunding will not extend the maturity of the outstanding debt.

Staff recommends approval of this ordinance. Murphy Davis, of Sentry Management, will be present at the meeting to answer any questions regarding this refinancing.

**Motion Approval Language**

MOVE APPROVAL OF THE ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF WICHITA FALLS, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, TAXABLE SERIES 2021; ESTABLISHING PROCEDURES AND DELEGATING AUTHORITY FOR THE SALE AND DELIVERY OF THE BONDS; PROVIDING AN EFFECTIVE DATE; AND ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT

☒ **Chief Financial Officer/Director of Finance**

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**ASSOCIATED INFORMATION:** Ordinance

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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THE STATE OF TEXAS	\$
WICHITA COUNTY	\$
CITY OF WICHITA FALLS	\$

## Section 1. RECITALS, AMOUNT, PURPOSE AND DESIGNATION OF THE BONDS.

(a) The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section.

(b) The bonds of the Issuer are hereby authorized to be issued and delivered in the aggregate principal amount hereinafter provided for the public purpose of providing funds to refund a portion of the Issuer's outstanding indebtedness and to pay costs of issuance of the Bonds.

(c) Each bond issued pursuant to this Ordinance shall be designated: "CITY OF WICHITA FALLS, TEXAS, GENERAL OBLIGATION REFUNDING BOND, TAXABLE SERIES 2021," or such other designation as set forth in the Pricing Certificate and initially there shall be issued, sold, and delivered hereunder fully registered Bonds, without interest coupons, payable to the respective registered owners thereof (with the initial bonds being made payable to the initial purchaser as described in Section 10 hereof), or to the registered assignee or assignees of said bonds or any portion or portions thereof (in each case, the "Registered Owner"). The Bonds shall be in the respective denominations and principal amounts, shall be numbered, shall mature and be payable on the date or dates in each of the years and in the principal amounts, and shall bear interest to their respective dates of maturity or redemption prior to maturity at the rates per annum, as set forth in the Pricing Certificate.

## Section 2. DELEGATION TO PRICING OFFICER.

(a) As authorized by Chapter 1207, Texas Government Code, as amended, the Chief Financial Officer, the City Manager and/or the Assistant City Manager of the Issuer (each a "Pricing Officer") are each hereby authorized to act on behalf of the Issuer in selling and delivering the Bonds, determining which of the Eligible Refunded Obligations shall be refunded and carrying out the other procedures specified in this Ordinance, including, determining the date of the Bonds, any additional or different designation or title by which the Bonds shall be known, the price at which the Bonds will be sold, the years in which the Bonds will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the interest payment and record dates, the price and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the Issuer, as well as any mandatory sinking fund redemption provisions, and all other matters relating to the issuance, sale, and delivery of the Bonds and the refunding of the Refunded Obligations, including without limitation establishing the redemption dates for and effecting the redemption of the Refunded Obligations and obtaining municipal bond insurance for all or any portion of the Bonds and providing for the terms and provisions thereof applicable to the Bonds (including the execution of any commitment agreements, membership agreements in mutual insurance companies, and other similar agreements), all of which shall be specified in the Pricing Certificate; provided that:

(i) the aggregate principal amount of the Bonds authorized pursuant to this Ordinance shall not exceed \$11,000,000.00;

(ii) the refunding of the Refunded Obligations must produce a net present value debt service savings of not less than 3%;

(iii) the true interest cost of the Bonds shall not exceed 6.00%;

(iv) the final maturity of the Bonds shall not be later than September 1, 2033; and

(v) the delegation made hereby shall expire if not exercised by the Pricing Officer within 6 months of the date of adoption of the Ordinance.

(b) In establishing the aggregate principal amount of the Bonds, the Pricing Officer shall establish an amount not exceeding the amount authorized in Subsection (a) hereof, which shall be sufficient in amount to provide for the purposes for which the Bonds are authorized and to pay costs of issuing the Bonds. The Bonds shall be sold with and subject to such terms as set forth in the Pricing Certificate.

(c) The Pricing Officer shall select the Eligible Refunded Obligations to be refunded in accordance with the limitations set forth above.

(d) The Pricing Officer shall determine whether the Bonds will be sold by private placement or negotiated or competitive sale.

### Section 3. CHARACTERISTICS OF THE BONDS.

(a) Appointment of Paying Agent/Registrar. The selection and appointment of the paying agent/registrar for the Bonds (the "Paying Agent/Registrar") shall be as provided in the Pricing Certificate. The Mayor or the Pricing Officer is authorized and directed to execute and deliver in the name and on behalf of the Issuer a Paying Agent/Registrar Agreement with the Paying Agent/Registrar in substantially the form presented at this meeting.

(b) Registration, Transfer, Conversion and Exchange. The Issuer shall keep or cause to be kept at the corporate trust office of the Paying Agent/Registrar books or records for the registration of the transfer, conversion and exchange of the Bonds (the "Registration Books"), and the Issuer hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, conversions and exchanges under such reasonable regulations as the Issuer and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions and exchanges as herein provided within three (3) days of presentation in due and proper form. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the registered owner of each Bond to which payments with respect to the Bonds shall be mailed, as herein provided; but it shall be the duty of each registered owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The Issuer shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Issuer shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange and delivery of a substitute Bond or Bonds. Registration of assignments, transfers, conversions and exchanges of Bonds shall be made in the manner provided and with the effect stated in the FORM OF BOND set forth in this Ordinance. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond.

(c) Authentication. Except as provided in subsection (j) of this section, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign said Bond, and no such Bond shall be deemed to be issued or outstanding unless such Bond is so executed. The Paying Agent/Registrar promptly shall cancel all paid Bonds and Bonds surrendered for conversion and exchange. No additional ordinances, orders or resolutions need be passed or adopted by the governing body of the Issuer or any other body or person so as to accomplish the foregoing conversion and exchange of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution and delivery of the substitute Bonds in the manner prescribed herein. Pursuant to Subchapter D, Chapter 1201, Texas Government Code, the duty of conversion and exchange of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Bond, the converted and exchanged Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

(d) Payment of Principal and Interest. The Issuer hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Bonds, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the Issuer and the Paying Agent/Registrar with respect to the Bonds, and of all conversions and exchanges of Bonds, and all replacements of Bonds, as provided in this Ordinance. However, in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Issuer. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first class postage prepaid, to the address of each registered owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(e) Payment to Registered Owner. Notwithstanding any other provision of this Ordinance to the contrary, the Issuer and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Registration Books as the absolute owner of such Bond for the purpose of payment of principal and interest with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the order of the registered owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than a registered owner, as shown in the Registration Books, shall receive a Bond certificate evidencing the obligation of the Issuer to make payments of principal and interest pursuant to this Ordinance.

(f) Paying Agent/Registrar. The Issuer covenants with the registered owners of the Bonds that at all times while the Bonds are outstanding the Issuer will provide a competent and legally qualified bank, trust company, financial institution or other entity to act as and perform the services of Paying Agent/Registrar for the Bonds under this Ordinance, and that the Paying Agent/Registrar will be one entity. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(g) Substitute Paying Agent/Registrar. The Issuer reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than one hundred-twenty (120) days written notice to the Paying Agent/Registrar, to be effective not later than sixty (60) days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the Issuer covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bonds, to the new Paying Agent/Registrar designated and appointed by the Issuer. Upon any change in the Paying Agent/Registrar, the Issuer promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each Registered Owner of the Bonds, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar.

(h) Book-Entry Only System. The Bonds issued in exchange for the Bonds initially issued to the purchaser or purchasers specified herein shall be initially issued in the form of a separate single fully registered Bond for each of the maturities thereof and the ownership of each such Bond shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), and except as provided in subsections (j) and (k) of this Section, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

(i) Blanket Letter of Representations. The previous execution and delivery of the Blanket Letter of Representations with respect to obligations of the Issuer is hereby ratified and confirmed; and the provisions thereof shall be fully applicable to the Bonds. Notwithstanding anything to the contrary contained herein, while the Bonds are subject to DTC's Book-Entry Only System and to the extent permitted by law, the Letter of Representations is hereby incorporated herein and its provisions shall prevail over any other provisions of this Ordinance in the event of conflict.

(j) Bonds Registered in the Name of Cede & Co. With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the Issuer and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created ("DTC Participant") to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the Issuer and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than a registered owner of Bonds, as shown on the Registration Books, of any notice with respect to the Bonds, or (iii) the payment to any DTC Participant or any other person, other than a registered owner of Bonds, as



shown in the Registration Books of any amount with respect to principal of or interest on the Bonds. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record Date, the words "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(k) Successor Securities Depository; Transfers Outside Book-Entry Only System. In the event that the Issuer determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the Issuer to DTC or that it is in the best interest of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the Issuer shall (i) appoint a successor securities depository, qualified to act as such under Section 17A of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names registered owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

(l) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the representation letter of the Issuer to DTC.

(m) General Characteristics of the Bonds. The Bonds (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Bonds to be payable only to the Registered Owners thereof, (ii) may and shall be redeemed prior to their scheduled maturities, (iii) may be transferred and assigned, (iv) may be converted and exchanged for other Bonds, (v) shall have the characteristics, (vi) shall be signed, sealed, executed and authenticated, (vii) the principal of and interest on the Bonds shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the Issuer shall have certain duties and responsibilities with respect to the Bonds, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF BOND set forth in this Ordinance. The Bonds initially issued and delivered pursuant to this Ordinance is not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Bond issued in conversion of and exchange for any Bond or Bonds issued under this Ordinance the Paying Agent/Registrar shall execute the Paying Agent/Registrar's Authentication Bond, in the FORM OF BOND set forth in this Ordinance.

(n) Cancellation of Initial Bonds. On the closing date, one initial Bond representing the entire principal amount of the Bonds, payable in stated installments to the purchaser designated in Section 10 or its designee, executed by manual or facsimile signature of the Mayor and City Secretary of the Issuer, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to such purchaser or its designee. Upon payment for such initial Bond, the Paying Agent/Registrar shall cancel such initial Bond and deliver to DTC on behalf of such purchaser one registered definitive Bond for each year of maturity of such Bonds, in the aggregate principal amount of all of the Bonds for such maturity, registered in the name of Cede & Co., as nominee of DTC. To the extent that the Paying Agent/Registrar is eligible to participate in DTC's FAST System, pursuant to an agreement between the Paying Agent/Registrar and DTC, the Paying Agent/Registrar shall hold the definitive Bonds in safekeeping for DTC.

Section 4. FORM OF BONDS. The form of the Bonds, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Bonds initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance, and with the Bonds to be completed with information set forth in the Pricing Certificate.

(a) Form of Bond.

NO. R-

UNITED STATES OF AMERICA  
STATE OF TEXAS  
CITY OF WICHITA FALLS, TEXAS  
GENERAL OBLIGATION REFUNDING BOND  
TAXABLE SERIES 2021

PRINCIPAL  
AMOUNT  
\$ \_\_\_\_\_

<u>INTEREST RATE</u>	<u>DELIVERY DATE</u>	<u>MATURITY DATE</u>	<u>CUSIP NO.</u>
----------------------	----------------------	----------------------	------------------

REGISTERED OWNER:

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

ON THE MATURITY DATE specified above, the City of Wichita Falls, in Wichita County, Texas, (the "Issuer"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above. The Issuer promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from the Delivery Date specified above at the Interest Rate per annum specified above. Interest is payable on \_\_\_\_\_, \_\_\_\_ and semiannually on each \_\_\_\_\_ and \_\_\_\_\_ thereafter to the Maturity Date specified above, or the date of redemption prior to maturity; except, if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full.

THE PRINCIPAL OF AND INTEREST ON this Bond are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Bond shall be paid to the registered owner hereof upon presentation and surrender of this Bond at maturity, or upon the date fixed for its redemption prior to maturity, at the principal corporate trust office of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, which is the "Paying Agent/Registrar" for this Bond. The payment of interest on this Bond shall be made by the Paying Agent/Registrar to the registered owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the Issuer required by the ordinance authorizing the issuance of this Bond (the "Bond Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the registered owner hereof, at its address as it appeared on the \_\_\_\_\_ business day of the month preceding each such date (the "Record Date") on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Issuer. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Bond appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

ANY ACCRUED INTEREST due at maturity or upon the redemption of this Bond prior to maturity as provided herein shall be paid to the registered owner upon presentation and surrender of this Bond for payment or redemption at the principal corporate trust office of the Paying Agent/Registrar. The Issuer covenants with the

registered owner of this Bond that on or before each principal payment date and interest payment date for this Bond it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Bond Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Bonds, when due.

IF THE DATE for any payment of the principal of or interest on this Bond shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day that is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS BOND is one of a series of Bonds dated \_\_\_\_\_, \_\_\_\_\_, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$\_\_\_\_\_ for the public purposes of refunding certain outstanding obligations of the Issuer set forth in the Pricing Certificate; and to pay the costs incurred in connection with the issuance of the Bonds.

ON \_\_\_\_\_, or on any date thereafter, the Bonds of this series may be redeemed prior to their scheduled maturities, at the option of the Issuer, with funds derived from any available and lawful source, as a whole, or in part, and, if in part, the particular Bonds, or portions thereof, to be redeemed shall be selected and designated by the Issuer (provided that a portion of a Bond may be redeemed only in an integral multiple of \$5,000), at a redemption price equal to the principal amount to be redeemed plus accrued interest to the date fixed for redemption.

THE BONDS scheduled to mature on \_\_\_\_\_ in the years \_\_\_\_ and \_\_\_\_ (the "Term Bonds") are subject to scheduled mandatory redemption by the Paying Agent/Registrar by lot, or by any other customary method that results in a random selection, at a price equal to the principal amount thereof, plus accrued interest to the redemption date, out of moneys available for such purpose in the interest and sinking fund for the Bonds, on the dates and in the respective principal amounts, set forth in the following schedule:

Term Bond		Term Bond	
Maturity: _____, _____		Maturity: _____, _____	
Mandatory Redemption Date	Principal Amount	Mandatory Redemption Date	Principal Amount
_____, _____	\$ _____	_____, _____	\$ _____
_____, _____	_____	_____, _____	_____
_____, _____	_____	_____, _____	_____
_____, _____ (maturity)	_____	_____, _____ (maturity)	_____

The principal amount of Term Bonds of a stated maturity required to be redeemed on any mandatory redemption date pursuant to the operation of the mandatory sinking fund redemption provisions shall be reduced, at the option of the Issuer, by the principal amount of any Term Bonds of the same maturity which, at least forty-five (45) days prior to a mandatory redemption date (1) shall have been acquired by the Issuer at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the Issuer at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase, or (3) shall have been redeemed pursuant to the optional redemption provisions and not theretofore credited against a mandatory redemption requirement.

WITH RESPECT TO ANY OPTIONAL REDEMPTION OF THE BONDS, unless certain prerequisites to such redemption required by this Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the Issuer, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on

or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the Issuer shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

AT LEAST THIRTY (30) DAYS prior to the date fixed for any redemption of Bonds or portions thereof prior to maturity a written notice of such redemption shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, at least thirty (30) days prior to the date fixed for any such redemption, to the registered owner of each Bond to be redeemed at its address as it appeared on the business day prior to the mailing of such redemption notice; provided, however, that the failure of the registered owner to receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Bond. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Bonds or portions thereof that are to be so redeemed. If such written notice of redemption is sent and if due provision for such payment is made, all as provided above, the Bonds or portions thereof that are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the registered owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Bond shall be redeemed, a substitute Bond or Bonds having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the registered owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the registered owner upon the surrender thereof for cancellation, at the expense of the Issuer, all as provided in the Bond Ordinance.

ALL BONDS OF THIS SERIES are issuable solely as fully registered bonds, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Bond Ordinance, this Bond may, at the request of the registered owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered Bonds, without interest coupons, payable to the appropriate registered owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate registered owner, assignee or assignees, as the case may be, upon surrender of this Bond to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Bond Ordinance. Among other requirements for such assignment and transfer, this Bond must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Bond or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Bond or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Bond may be executed by the registered owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Bond or any portion or portions hereof from time to time by the registered owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Bond or portion thereof will be paid by the Issuer. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, conversion, or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) with respect to any Bond or any portion thereof called for redemption prior to maturity, within forty-five (45) days prior to its redemption date.

IN THE EVENT any Paying Agent/Registrar for the Bonds is changed by the Issuer, resigns, or otherwise ceases to act as such, the Issuer has covenanted in the Bond Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the registered owners of the Bonds.

IT IS HEREBY certified, recited and covenanted that this Bond has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Bond have been performed, existed and been done in accordance

with law; and that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Bond, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said Issuer, and have been pledged for such payment, within the limit prescribed by law.

THE ISSUER HAS RESERVED THE RIGHT to amend the Bond Ordinance as provided therein, and under some (but not all) circumstances amendments thereto must be approved by the registered owners of a majority in aggregate principal amount of the outstanding Bonds.

BY BECOMING the registered owner of this Bond, the registered owner thereby acknowledges all of the terms and provisions of the Bond Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Bond Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the Issuer, and agrees that the terms and provisions of this Bond and the Bond Ordinance constitute a contract between each registered owner hereof and the Issuer.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be signed with the manual or facsimile signature of the Mayor of the Issuer (or in the Mayor's absence, the Mayor Pro Tem of the Issuer) and countersigned with the manual or facsimile signature of the City Secretary of said Issuer, and has caused the official seal of the Issuer to be duly impressed, or placed in facsimile, on this Bond.

\_\_\_\_\_  
(signature)  
City Secretary

\_\_\_\_\_  
(signature)  
Mayor

(SEAL)

(b) Form of Paying Agent/Registrar's Authentication Certificate.

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE  
(To be executed if this Bond is not accompanied by an executed  
Registration Certificate of the Comptroller of Public Accounts of the State of Texas)

It is hereby certified that this Bond has been issued under the provisions of the Bond Ordinance described in the text of this Bond; and that this Bond has been issued in conversion or replacement of, or in exchange for, a Bond, Bonds, or a portion of a Bond or Bonds of a series that originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated: \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_  
Paying Agent/Registrar

By: \_\_\_\_\_  
Authorized Representative

(c) Form of Assignment.

ASSIGNMENT

(Please print or type clearly)

For value received, the undersigned hereby sells, assigns and transfers unto: \_\_\_\_\_

Transferee's Social Security or Taxpayer Identification Number: \_\_\_\_\_

Transferee's name and address, including zip code: \_\_\_\_\_

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

\_\_\_\_\_, attorney, to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_.

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a securities transfer association recognized signature guarantee program.

NOTICE: The signature above must correspond with the name of the Registered Owner as it appears upon the front of this Bond in every particular, without alteration or enlargement or any change whatsoever.

(d) Form of Registration Certificate of the Comptroller of Public Accounts.

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

I hereby certify that there is on file and of record in my office a true and correct copy of the opinion of the Attorney General of the State of Texas approving this Bond and that this Bond has been registered this day by me.

Witness my signature and seal this \_\_\_\_\_.

Comptroller of Public Accounts of the State of Texas

(COMPTROLLER'S SEAL)

(e) Initial Bond Insertions.

(i) The initial Bond shall be in the form set forth is paragraph (a) of this Section, except that:

- A. immediately under the name of the Bond, the headings "Interest Rate" and "Maturity Date" shall both be completed with the words "As shown below" and "CUSIP No. \_\_\_\_" shall be deleted.
- B. the first paragraph shall be deleted and the following will be inserted:

"THE CITY OF WICHITA FALLS, TEXAS, in Wichita County, Texas (the "Issuer"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on \_\_\_\_\_ in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Years(9/1)</u>	<u>Principal Installments</u>	<u>Interest Rates</u>
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(Information from Pricing Certificate to be inserted)

The Issuer promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from \_\_\_\_\_ at the respective Interest Rate per annum specified above. Interest is payable on \_\_\_\_\_, and semiannually on each \_\_\_\_\_ and \_\_\_\_\_ thereafter to the date of payment of the principal installment specified above, or the date of redemption prior to maturity; except, that if this Bond is required to be authenticated and the date of its authentication is later than the first

Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full.”

C. The Initial Bond shall be numbered “T-1.”

#### Section 5. INTEREST AND SINKING FUND.

(a) A special “Interest and Sinking Fund” is hereby created and shall be established and maintained by the Issuer as a separate fund or account and the funds therein shall be deposited into and held in an account at an official depository bank of said Issuer. Said Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of said Issuer, and shall be used only for paying the interest on and principal of said Bonds. All amounts received from the sale of the Bonds as accrued interest shall be deposited upon receipt to the Interest and Sinking Fund and all ad valorem taxes levied and collected for and on account of said Bonds shall be deposited, as collected, to the credit of said Interest and Sinking Fund. During each year while any of said Bonds are outstanding and unpaid, the governing body of said Issuer shall compute and ascertain a rate and amount of ad valorem tax that will be sufficient to raise and produce the money required to pay the interest on said Bonds as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of said Bonds as such principal matures (but never less than 2% of the original amount of said Bonds as a sinking fund each year); and said tax shall be based on the latest approved tax rolls of said Issuer, with full allowances being made for tax delinquencies and the cost of tax collection. Said rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in said Issuer, for each year while any of said Bonds are outstanding and unpaid, and said tax shall be assessed and collected each such year and deposited to the credit of the aforesaid Interest and Sinking Fund. Said ad valorem taxes sufficient to provide for the payment of the interest on and principal of said Bonds, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law. Notwithstanding the requirements of this Section, if lawfully available moneys of the Issuer are on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes that otherwise would have been required to be levied pursuant to this Section may be reduced to the extent and by the amount of the lawfully available funds then on deposit in the Interest and Sinking Fund.

(b) Chapter 1208, Texas Government Code, applies to the issuance of the Bonds and the pledge of the taxes granted by the Issuer under this Section, and is therefore valid, effective, and perfected. Should Texas law be amended at any time while the Bonds are outstanding and unpaid, the result of such amendment being that the pledge of the taxes granted by the Issuer under this Section is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, in order to preserve to the registered owners of the Bonds a security interest in said pledge, the Issuer agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing of a security interest in said pledge to occur.

#### Section 6. DEFEASANCE OF BONDS.

(a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a “Defeased Bond”) within the meaning of this Ordinance, except to the extent provided in subsection (d) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (the “Future Escrow Agreement”) for such payment (1) lawful money of the United States of America sufficient to make such payment or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the Issuer with the Paying Agent/Registrar for the payment of its services until all Defeased Bonds shall have become due and payable. At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits

of, the ad valorem taxes herein levied and pledged as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities. Notwithstanding any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem Defeased Bonds that is made in conjunction with the payment arrangements specified in Subsection (a)(i) or (ii) of this Section shall not be irrevocable, provided that: (1) in the proceedings providing for such payment arrangements, the Issuer expressly reserves the right to call the Defeased Bonds for redemption; (2) gives notice of the reservation of that right to the owners of the Defeased Bonds immediately following the making of the payment arrangements; and (3) directs that notice of the reservation be included in any redemption notices that it authorizes.

(b) Any moneys so deposited with the Paying Agent/Registrar may at the written direction of the Issuer be invested in Defeasance Securities, maturing in the amounts and times as hereinbefore set forth, and all income from such Defeasance Securities received by the Paying Agent/Registrar that is not required for the payment of the Bonds and interest thereon, with respect to which such money has been so deposited, shall be turned over to the Issuer, or deposited as directed in writing by the Issuer. Any Future Escrow Agreement pursuant to which the money and/or Defeasance Securities are held for the payment of Defeased Bonds may contain provisions permitting the investment or reinvestment of such moneys in Defeasance Securities or the substitution of other Defeasance Securities upon the satisfaction of the requirements specified in Subsection (a)(i) or (ii) of this Section. All income from such Defeasance Securities received by the Paying Agent/Registrar which is not required for the payment of the Defeased Bonds, with respect to which such money has been so deposited, shall be remitted to the Issuer or deposited as directed in writing by the Issuer.

(c) The term "Defeasance Securities" means (1) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by the United States; and (2) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the governing body of the City adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent.

(d) Until all Defeased Bonds shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Bonds the same as if they had not been defeased, and the Issuer shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(e) In the event that the Issuer elects to defease less than all of the principal amount of Bonds of a maturity, the Paying Agent/Registrar shall select, or cause to be selected, such amount of Bonds by such random method as it deems fair and appropriate.

#### Section 7. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BONDS.

(a) Replacement Bonds. In the event any outstanding Bond is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new Bond of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Bond, in replacement for such Bond in the manner hereinafter provided.

(b) Application for Replacement Bonds. Application for replacement of damaged, mutilated, lost, stolen or destroyed Bonds shall be made by the registered owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Bond, the registered owner applying for a replacement Bond shall furnish to the Issuer and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Bond, the registered owner shall furnish to the Issuer and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Bond, as the case may be. In every case of damage or mutilation of a Bond, the registered owner shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Bond shall have matured, and no default has occurred that is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Bond, the Issuer may authorize the payment of the same (without



surrender thereof except in the case of a damaged or mutilated Bond) instead of issuing a replacement Bond, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Bonds. Prior to the issuance of any replacement Bond, the Paying Agent/Registrar shall charge the registered owner of such Bond with all legal, printing, and other expenses in connection therewith. Every replacement Bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is lost, stolen or destroyed shall constitute a contractual obligation of the Issuer whether or not the lost, stolen or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Bonds duly issued under this Ordinance.

(e) Authority for Issuing Replacement Bonds. In accordance with Section 1206.022, Texas Government Code, this Section 7 of this Ordinance shall constitute authority for the issuance of any such replacement Bond without necessity of further action by the governing body of the Issuer or any other body or person, and the duty of the replacement of such Bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Bonds in the form and manner and with the effect, as provided in Section 3(b) of this Ordinance for Bonds issued in conversion and exchange for other Bonds.

#### Section 8. CUSTODY, APPROVAL, AND REGISTRATION OF BONDS; BOND COUNSEL'S OPINION; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED; ENGAGEMENT OF BOND COUNSEL.

(a) The Mayor of the Issuer and each of the Pricing Officers is hereby authorized to have control of the Bonds initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Bonds pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Bonds said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Bonds, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Bond. The approving legal opinion of the Issuer's Bond Counsel and the assigned CUSIP numbers may, at the option of the Issuer, be printed on the Bonds issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the registered owners of the Bonds. In addition, if bond insurance is obtained, the Bonds may bear an appropriate legend as provided by the insurer.

(b) The obligation of the initial purchaser to accept delivery of the Bonds is subject to the initial purchaser being furnished with the final, approving opinion of McCall, Parkhurst & Horton L.L.P., bond counsel to the Issuer, which opinion shall be dated as of and delivered on the date of initial delivery of the Bonds to the initial purchaser. The engagement of such firm as bond counsel to the Issuer in connection with issuance, sale and delivery of the Bonds is hereby approved and confirmed.

#### Section 9. RESERVED.

#### Section 10. SALE OF BONDS AND APPROVAL OF OFFICIAL STATEMENT; FURTHER PROCEDURES.

(a) The Bonds shall be sold and delivered subject to the provisions of Section 1 and Section 2 and pursuant to the terms and provisions of a purchase agreement or purchase letter (the "Purchase Agreement") which the Pricing Officer is hereby authorized to execute and deliver and in which the purchaser or purchasers (the "Underwriters") of the Bonds shall be designated. The Bonds shall initially be registered in the name of the purchaser thereof as set forth in the Pricing Certificate.

(b) The Mayor, City Secretary or the Pricing Officer are further authorized and directed to execute and deliver for and on behalf of the Issuer copies of a Preliminary Official Statement and Official Statement, if prepared in connection with the offering of the Bonds by the Underwriters, in final form as may be required by the Underwriters, and such final Official Statement in the form and content as approved by the Pricing Officer or as manually executed by said officials shall be deemed to be approved by the City Council and constitute the Official Statement authorized for distribution and use by the Underwriters. The form and substance of the Preliminary Official Statement for the

Bonds and any addenda, supplement or amendment thereto, all as approved by the Pricing Officer, are hereby deemed to be approved in all respects by the City Council, and the Preliminary Official Statement is hereby deemed final as of its date (except for the omission of pricing and related information) within the meaning and for the purpose of paragraph (b)(1) of the Rule (hereinafter defined).

(c) The Pricing Officer is authorized, in connection with effecting the sale of the Bonds, to obtain from a municipal bond insurance company so designated in the Pricing Certificate (the “Insurer”) a municipal bond insurance policy (the “Insurance Policy”) in support of the Bonds. To that end, should the Pricing Officer exercise such authority and commit the Issuer to obtain a municipal bond insurance policy, for so long as the Insurance Policy is in effect, the requirements of the Insurer relating to the issuance of the Insurance Policy as set forth in the Pricing Certificate are incorporated by reference into this Ordinance and made a part hereof for all purposes, notwithstanding any other provision of this Ordinance to the contrary. The Pricing Officer shall have the authority to execute any documents to effect the issuance of the Insurance Policy by the Insurer.

(d) The Mayor and Mayor Pro Tem, the City Secretary and the Pricing Officers of the Issuer, and each of them, shall be and they are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the Issuer such documents, certificates and other instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Bonds, the sale of the Bonds and the Official Statement. In case any officer whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

#### Section 11. COMPLIANCE WITH RULE 15c2-12.

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

“MSRB” means the Municipal Securities Rulemaking Board.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

(b) Annual Reports.

(i) The Issuer shall provide annually to the MSRB, in an electronic format as prescribed by the MSRB, within six (6) months after the end of each fiscal year ending in or after 2021, financial information and operating data with respect to the Issuer of the general type included in the final Official Statement authorized by Section 10 of this Ordinance, being the information described in the Pricing Certificate. The Issuer will additionally provide audited financial statements when and if available, and in any event, within twelve (12) months after the end of each fiscal year ending in or after 2021. If the audit of such financial statements is not complete within twelve (12) months after any such fiscal year end, then the Issuer will file unaudited financial statements within such twelve (12) month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available. Any financial statements so to be provided shall be prepared in accordance with the accounting principles described in Appendix B to the Official Statement, or such other accounting principles as the Issuer may be required to employ from time to time pursuant to state law or regulation.

(ii) If the Issuer changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Issuer otherwise would be required to provide financial information and operating data pursuant to this Section. The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document that is available to the public on the MSRB’s internet website or filed with the SEC. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

(c) Event Notices.

(i) The Issuer shall notify the MSRB in an electronic format as prescribed by the MSRB, in a timely manner (but not in excess of ten (10) business days after the occurrence of the event) of any of the following events with respect to the Bonds:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other events affecting the tax status of the Bonds;
7. Modifications to rights of holders of the Bonds, if material;
8. Certificate calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership or similar event of the Issuer;
13. The consummation of a merger, consolidation, or acquisition involving the Issuer or the sale of all or substantially all of the assets of the Issuer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. Appointment of a successor trustee or change in the name of the trustee, if material;
15. Incurrence of a financial obligation of the Issuer, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of any such financial obligation of the Issuer, any of which affect security holders, if material; and
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of any such financial obligation of the Issuer, any of which reflect financial difficulties.

As used in clause 12 above, the phrase “bankruptcy, insolvency, receivership or similar event” means the appointment of a receiver, fiscal agent or similar officer for the Issuer in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets of the Issuer, or if jurisdiction has been assumed by leaving the existing City Council and officials or officers of the Issuer in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Issuer. For the purposes of the above describe event notices 15 and 16, the term “financial obligation” means (i) debt obligation, (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (iii) a guarantee of (i) or (ii); provided however, that a “financial obligation” shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

(ii) The Issuer shall notify the MSRB, in a timely manner, of any failure by the Issuer to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such subsection.

(d) Limitations, Disclaimers, and Amendments.

(i) The Issuer shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the Issuer remains an “obligated person” with respect to the Bonds within

the meaning of the Rule, except that the Issuer in any event will give notice of any deposit made in accordance with this Ordinance or applicable law that causes Bonds no longer to be outstanding.

(ii) The provisions of this Section are for the sole benefit of the registered owners and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Issuer undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Issuer's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The Issuer does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

(iii) UNDER NO CIRCUMSTANCES SHALL THE ISSUER BE LIABLE TO THE REGISTERED OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE ISSUER, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(iv) No default by the Issuer in observing or performing its obligations under this Section shall comprise a breach of or default under this Ordinance for purposes of any other provision of this Ordinance. Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Issuer under federal and state securities laws.

(v) Should the Rule be amended to obligate the Issuer to make filings with or provide notices to entities other than the MSRB, the Issuer hereby agrees to undertake such obligation with respect to the Bonds in accordance with the Rule as amended. The provisions of this Section may be amended by the Issuer from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Issuer, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the registered owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the Issuer (such as nationally recognized bond counsel) determined that such amendment will not materially impair the interest of the registered owners and beneficial owners of the Bonds. The Issuer may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds. If the Issuer so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with subsection (b) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided.

Section 12. METHOD OF AMENDMENT. The Issuer hereby reserves the right to amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The Issuer may from time to time, without the consent of any holder, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance in order to (i) cure any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the holders, (ii) grant additional rights or security for the benefit of the holders, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the holders, (iv) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, or (v) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be

inconsistent with the provisions of this Ordinance and that shall not in the opinion of the Issuer's Bond Counsel materially adversely affect the interests of the holders.

(b) Except as provided in paragraph (a) above, the holders of Bonds aggregating in principal amount 51% of the aggregate principal amount of then outstanding Bonds that are the subject of a proposed amendment shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the Issuer; provided, however, that without the consent of 100% of the holders in aggregate principal amount of the then outstanding Bonds, nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in any of the Bonds so as to:

(1) Make any change in the maturity of any of the outstanding Bonds;

(2) Reduce the rate of interest borne by any of the outstanding Bonds;

(3) Reduce the amount of the principal of, or redemption premium, if any, payable on any outstanding Bonds;

(4) Modify the terms of payment of principal or of interest or redemption premium on outstanding Bonds or any of them or impose any condition with respect to such payment; or

(5) Change the minimum percentage of the principal amount of the Bonds necessary for consent to such amendment.

(c) If at any time the Issuer shall desire to amend this Ordinance under this Section, the Issuer shall send by U.S. mail to each registered owner of the affected Bonds a copy of the proposed amendment.

(d) Whenever at any time within one year from the date of mailing of such notice the Issuer shall receive an instrument or instruments executed by the holders of at least 51% in aggregate principal amount of all of the Bonds then outstanding that are required for the amendment, which instrument or instruments shall refer to the proposed amendment and that shall specifically consent to and approve such amendment, the Issuer may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the Issuer and all holders of such affected Bonds shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the holder of a Bond pursuant to the provisions of this Section shall be irrevocable for a period of six (6) months from the date of such consent, and shall be conclusive and binding upon all future holders of the same Bond during such period. Such consent may be revoked at any time after six (6) months from the date of such consent by the holder who gave such consent, or by a successor in title, by filing notice with the Issuer, but such revocation shall not be effective if the holders of 51% in aggregate principal amount of the affected Bonds then outstanding, have, prior to the attempted revocation, consented to and approved the amendment.

For the purposes of establishing ownership of the Bonds, the Issuer shall rely solely upon the registration of the ownership of such Bonds on the registration books kept by the Paying Agent/Registrar.

### Section 13. DEFAULT AND REMEDIES.

(a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the Issuer, the failure to perform which materially, adversely affects the rights of the registered owners of the

Bonds, including, but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of sixty (60) days after notice of such default is given by any Registered Owner to the Issuer.

(b) Remedies for Default.

(i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the Issuer for the purpose of protecting and enforcing the rights of the Registered Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies.

(ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Bonds then outstanding.

(c) Remedies Not Exclusive.

(i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance.

(ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(iii) By accepting the delivery of a Bond authorized under this Ordinance, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the Issuer or the City Council.

Section 14. APPROVAL OF ESCROW AGREEMENT AND TRANSFER OF FUNDS. In furtherance of authority granted by Section 1207.007(b), Texas Government Code, the Mayor or the Pricing Officer are further authorized to enter into and execute on behalf of the Issuer with the escrow agent selected and appointed in the Pricing Certificate, an escrow or similar agreement, in the form and substance as shall be approved by the Pricing Officer, which agreement will provide for the payment in full of the Refunded Obligations. In addition, the Mayor or the Pricing Officer is authorized to purchase such securities, to execute such subscriptions for the purchase of the Escrowed Securities (as defined in the agreement), if any, and to authorize such contributions for the escrow fund as provided in the agreement.

Section 15. REDEMPTION OF REFUNDED OBLIGATIONS.

(a) Subject to execution and delivery of the Purchase Agreement with the Underwriters, the Issuer hereby directs that the Refunded Obligations be called for redemption on the dates and at such prices as set forth in the Pricing Certificate. The Pricing Officer is hereby authorized and directed to issue or cause to be issued Notice of Redemption of the Refunded Obligations, completed with information from the Pricing Certificate, to the paying agents for the Refunded Obligations.

(b) In addition, the paying agents for the Refunded Obligations are hereby directed to provide the appropriate notices of redemption and defeasance as specified by the ordinances authorizing the issuance of Refunded Obligations and are hereby directed to make appropriate arrangements so that the Refunded Obligations may be redeemed on their redemption dates. The Refunded Obligations shall be presented for redemption at the paying agents therefor, and shall not bear interest after the date fixed for redemption.

(c) If the redemption of the Refunded Obligations results in the partial refunding of any maturity of the Refunded Obligations, the Pricing Officer shall direct the paying agent/registrars for the Refunded Obligations to designate at random and by lot which of the Refunded Obligations will be payable from and secured solely from ad valorem taxes of the Issuer pursuant to the ordinance of the Issuer authorizing the issuance of such Refunded Obligations (the "Refunded Bond Ordinance"). The paying agent/registrars shall notify by first-class mail all registered owners of all affected bonds of such maturities that: (i) a portion of such bonds have been refunded and are secured until final maturity solely with cash and investments maintained by the Escrow Agent in the Escrow Fund, (ii) the principal amount of all affected bonds of such maturities registered in the name of such registered owner that have been refunded and are payable solely from cash and investments in the Escrow Fund and the remaining principal amount of all affected bonds of such maturities registered in the name of such registered owner, if any, have not been refunded and are payable and secured solely from ad valorem taxes of the Issuer described in the Refunded Obligation Ordinance, (iii) the registered owner is required to submit his or her Refunded Obligations to the paying agent/registrars, for the purposes of re-registering such registered owner's bonds and assigning new CUSIP numbers in order to distinguish the source of payment for the principal and interest on such bonds, and (iv) payment of principal of and interest on such bonds may, in some circumstances, be delayed until such bonds have been re-registered and new CUSIP numbers have been assigned as required by (iii) above.

(d) The source of funds for payment of the principal of and interest on the Refunded Obligations on their respective maturity or redemption dates shall be from the funds deposited with the Escrow Agent pursuant to the Escrow Agreement approved in Section 14 of this Ordinance.

Section 16. APPROPRIATION. To pay the debt service coming due on the Bonds, if any (as determined by the Pricing Certificate) prior to receipt of the taxes levied to pay such debt service, there is hereby appropriated from current funds on hand, which are hereby certified to be on hand and available for such purpose, an amount sufficient to pay such debt service, and such amount shall be used for no other purpose.

Section 17. SEVERABILITY. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any persons or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this Ordinance, despite such invalidity, which remaining portions shall remain in full force and effect.

Section 18. EFFECTIVE DATE. In accordance with the provisions of Texas Government Code, Section 1201.028, this Ordinance shall be effective immediately upon its adoption by the City Council.

*(Execution Page Follows)*

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, this  
\_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
Mayor, City of Wichita Falls, Texas

\_\_\_\_\_  
City Secretary, City of Wichita Falls, Texas

[CITY SEAL]

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney, City of Wichita Falls, Texas



**Schedule I**

**Schedule of Eligible Refunded Obligations**

City of Wichita Falls, Texas Combination Tax and Revenue Certificates of Obligation, Taxable Series 2010

City of Wichita Falls, Texas Combination Tax and Revenue Certificates of Obligation, Series 2013A

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**CITY COUNCIL AGENDA**  
**August 3, 2021**

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**ITEM/SUBJECT:** Consider and approve an Ordinance authorizing the issuance of City of Wichita Falls, Texas, General Obligation Refunding Bonds, Series 2021; establishing procedures and delegating authority for the sale and delivery of the bonds; providing an effective date; and enacting other provisions relating to the subject.

**INITIATING DEPT:** Finance

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**STRATEGIC GOAL:** Efficiently Deliver City Services

**STRATEGIC OBJECTIVE:** Practice Effective Governance

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**COMMENTARY:** Periodically, the City, through its financial advisor (Sentry Management) considers refinancing outstanding debt if that debt can be sold at lower interest rates. At present, we have three outstanding debt issuances that may be refunded (refinanced) to achieve savings to the City.

This ordinance addresses the refunding of the 2011 Series CO, issued by the City for the improvement of Rhea Road, Callfield Road, and Lawrence Road. The Wichita Falls 4B Sales Tax Corporation, with reimbursement from Tax Increment Finance District #2, pays for this issuance.

Sentry Management has analyzed the financial market and determined that this refunding will achieve a savings over the remaining life of the bonds. It is estimated that the City will save \$202,982 in net present value, a savings of 10.77%. The refunding will not extend the maturity of the outstanding debt.

Staff recommends approval of this ordinance. Murphy Davis, of Sentry Management, will be present at the meeting to answer any questions regarding this refinancing.

**Motion Approval Language**

MOVE APPROVAL OF THE ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF WICHITA FALLS, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2021; ESTABLISHING PROCEDURES AND DELEGATING AUTHORITY FOR THE SALE AND DELIVERY OF THE BONDS; PROVIDING AN EFFECTIVE DATE; AND ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT

☒ **Chief Financial Officer/Director of Finance**

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**ASSOCIATED INFORMATION:** Ordinance

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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**THE STATE OF TEXAS** §  
**WICHITA COUNTY** §  
**CITY OF WICHITA FALLS** §

## Section 1. RECITALS, AMOUNT, PURPOSE AND DESIGNATION OF THE BONDS.

(a) The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section.

(b) The bonds of the Issuer are hereby authorized to be issued and delivered in the aggregate principal amount hereinafter provided for the public purpose of providing funds to refund a portion of the Issuer's outstanding indebtedness and to pay costs of issuance of the Bonds.

(c) Each bond issued pursuant to this Ordinance shall be designated: "CITY OF WICHITA FALLS, TEXAS, GENERAL OBLIGATION REFUNDING BOND, SERIES 2021," or such other designation as set forth in the Pricing Certificate and initially there shall be issued, sold, and delivered hereunder fully registered Bonds, without interest coupons, payable to the respective registered owners thereof (with the initial bonds being made payable to the initial purchaser as described in Section 10 hereof), or to the registered assignee or assignees of said bonds or any portion or portions thereof (in each case, the "Registered Owner"). The Bonds shall be in the respective denominations and principal amounts, shall be numbered, shall mature and be payable on the date or dates in each of the years and in the principal amounts, and shall bear interest to their respective dates of maturity or redemption prior to maturity at the rates per annum, as set forth in the Pricing Certificate.

## Section 2. DELEGATION TO PRICING OFFICER.

(a) As authorized by Chapter 1207, Texas Government Code, as amended, the Chief Financial Officer, the City Manager and/or the Assistant City Manager of the Issuer (each a "Pricing Officer") are each hereby authorized to act on behalf of the Issuer in selling and delivering the Bonds, determining which of the Eligible Refunded Obligations shall be refunded and carrying out the other procedures specified in this Ordinance, including, determining the date of the Bonds, any additional or different designation or title by which the Bonds shall be known, the price at which the Bonds will be sold, the years in which the Bonds will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the interest payment and record dates, the price and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the Issuer, as well as any mandatory sinking fund redemption provisions, and all other matters relating to the issuance, sale, and delivery of the Bonds and the refunding of the Refunded Obligations, including without limitation establishing the redemption dates for and effecting the redemption of the Refunded Obligations and obtaining municipal bond insurance for all or any portion of the Bonds and providing for the terms and provisions thereof applicable to the Bonds (including the execution of any commitment agreements, membership agreements in mutual insurance companies, and other similar agreements), all of which shall be specified in the Pricing Certificate; provided that:

(i) the aggregate principal amount of the Bonds authorized pursuant to this Ordinance shall not exceed \$2,045,000.00;

(ii) the refunding of the Refunded Obligations must produce a net present value debt service savings of not less than 3%;

(iii) the true interest cost of the Bonds shall not exceed 6.00%;

(iv) the final maturity of the Bonds shall not be later than September 1, 2033; and

(v) the delegation made hereby shall expire if not exercised by the Pricing Officer within 6 months of the date of adoption of the Ordinance.

(b) In establishing the aggregate principal amount of the Bonds, the Pricing Officer shall establish an amount not exceeding the amount authorized in Subsection (a) hereof, which shall be sufficient in amount to provide for the purposes for which the Bonds are authorized and to pay costs of issuing the Bonds. The Bonds shall be sold with and subject to such terms as set forth in the Pricing Certificate.

(c) The Pricing Officer shall select the Eligible Refunded Obligations to be refunded in accordance with the limitations set forth above.

(d) The Pricing Officer shall determine whether the Bonds will be sold by private placement or negotiated or competitive sale.

### Section 3. CHARACTERISTICS OF THE BONDS.

(a) Appointment of Paying Agent/Registrar. The selection and appointment of the paying agent/registrar for the Bonds (the "Paying Agent/Registrar") shall be as provided in the Pricing Certificate. The Mayor or the Pricing Officer is authorized and directed to execute and deliver in the name and on behalf of the Issuer a Paying Agent/Registrar Agreement with the Paying Agent/Registrar in substantially the form presented at this meeting.

(b) Registration, Transfer, Conversion and Exchange. The Issuer shall keep or cause to be kept at the corporate trust office of the Paying Agent/Registrar books or records for the registration of the transfer, conversion and exchange of the Bonds (the "Registration Books"), and the Issuer hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, conversions and exchanges under such reasonable regulations as the Issuer and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions and exchanges as herein provided within three (3) days of presentation in due and proper form. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the registered owner of each Bond to which payments with respect to the Bonds shall be mailed, as herein provided; but it shall be the duty of each registered owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The Issuer shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Issuer shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange and delivery of a substitute Bond or Bonds. Registration of assignments, transfers, conversions and exchanges of Bonds shall be made in the manner provided and with the effect stated in the FORM OF BOND set forth in this Ordinance. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond.

(c) Authentication. Except as provided in subsection (j) of this section, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign said Bond, and no such Bond shall be deemed to be issued or outstanding unless such Bond is so executed. The Paying Agent/Registrar promptly shall cancel all paid Bonds and Bonds surrendered for conversion and exchange. No additional ordinances, orders or resolutions need be passed or adopted by the governing body of the Issuer or any other body or person so as to accomplish the foregoing conversion and exchange of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution and delivery of the substitute Bonds in the manner prescribed herein. Pursuant to Subchapter D, Chapter 1201, Texas Government Code, the duty of conversion and exchange of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Bond, the converted and exchanged Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

(d) Payment of Principal and Interest. The Issuer hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Bonds, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the Issuer and the Paying Agent/Registrar with respect to the Bonds, and of all conversions and exchanges of Bonds, and all replacements of Bonds, as provided in this Ordinance. However, in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Issuer. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first class postage prepaid, to the address of each registered owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(e) Payment to Registered Owner. Notwithstanding any other provision of this Ordinance to the contrary, the Issuer and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Registration Books as the absolute owner of such Bond for the purpose of payment of principal and interest with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the order of the registered owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than a registered owner, as shown in the Registration Books, shall receive a Bond certificate evidencing the obligation of the Issuer to make payments of principal and interest pursuant to this Ordinance.

(f) Paying Agent/Registrar. The Issuer covenants with the registered owners of the Bonds that at all times while the Bonds are outstanding the Issuer will provide a competent and legally qualified bank, trust company, financial institution or other entity to act as and perform the services of Paying Agent/Registrar for the Bonds under this Ordinance, and that the Paying Agent/Registrar will be one entity. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(g) Substitute Paying Agent/Registrar. The Issuer reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than one hundred-twenty (120) days written notice to the Paying Agent/Registrar, to be effective not later than sixty (60) days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the Issuer covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bonds, to the new Paying Agent/Registrar designated and appointed by the Issuer. Upon any change in the Paying Agent/Registrar, the Issuer promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each Registered Owner of the Bonds, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar.

(h) Book-Entry Only System. The Bonds issued in exchange for the Bonds initially issued to the purchaser or purchasers specified herein shall be initially issued in the form of a separate single fully registered Bond for each of the maturities thereof and the ownership of each such Bond shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), and except as provided in subsections (j) and (k) of this Section, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

(i) Blanket Letter of Representations. The previous execution and delivery of the Blanket Letter of Representations with respect to obligations of the Issuer is hereby ratified and confirmed; and the provisions thereof shall be fully applicable to the Bonds. Notwithstanding anything to the contrary contained herein, while the Bonds are subject to DTC's Book-Entry Only System and to the extent permitted by law, the Letter of Representations is hereby incorporated herein and its provisions shall prevail over any other provisions of this Ordinance in the event of conflict.

(j) Bonds Registered in the Name of Cede & Co. With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the Issuer and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created ("DTC Participant") to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the Issuer and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than a registered owner of Bonds, as shown on the Registration Books, of any notice with respect to the Bonds, or (iii) the payment to any DTC Participant or any other person, other than a registered owner of Bonds, as

shown in the Registration Books of any amount with respect to principal of or interest on the Bonds. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record Date, the words "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(k) Successor Securities Depository; Transfers Outside Book-Entry Only System. In the event that the Issuer determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the Issuer to DTC or that it is in the best interest of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the Issuer shall (i) appoint a successor securities depository, qualified to act as such under Section 17A of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names registered owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

(l) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the representation letter of the Issuer to DTC.

(m) General Characteristics of the Bonds. The Bonds (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Bonds to be payable only to the Registered Owners thereof, (ii) may and shall be redeemed prior to their scheduled maturities, (iii) may be transferred and assigned, (iv) may be converted and exchanged for other Bonds, (v) shall have the characteristics, (vi) shall be signed, sealed, executed and authenticated, (vii) the principal of and interest on the Bonds shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the Issuer shall have certain duties and responsibilities with respect to the Bonds, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF BOND set forth in this Ordinance. The Bonds initially issued and delivered pursuant to this Ordinance is not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Bond issued in conversion of and exchange for any Bond or Bonds issued under this Ordinance the Paying Agent/Registrar shall execute the Paying Agent/Registrar's Authentication Bond, in the FORM OF BOND set forth in this Ordinance.

(n) Cancellation of Initial Bonds. On the closing date, one initial Bond representing the entire principal amount of the Bonds, payable in stated installments to the purchaser designated in Section 10 or its designee, executed by manual or facsimile signature of the Mayor and City Clerk of the Issuer, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to such purchaser or its designee. Upon payment for such initial Bond, the Paying Agent/Registrar shall cancel such initial Bond and deliver to DTC on behalf of such purchaser one registered definitive Bond for each year of maturity of such Bonds, in the aggregate principal amount of all of the Bonds for such maturity, registered in the name of Cede & Co., as nominee of DTC. To the extent that the Paying Agent/Registrar is eligible to participate in DTC's FAST System, pursuant to an agreement between the Paying Agent/Registrar and DTC, the Paying Agent/Registrar shall hold the definitive Bonds in safekeeping for DTC.

Section 4. FORM OF BONDS. The form of the Bonds, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Bonds initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance, and with the Bonds to be completed with information set forth in the Pricing Certificate.

(a) Form of Bond.



NO. R-

UNITED STATES OF AMERICA  
STATE OF TEXAS  
CITY OF WICHITA FALLS, TEXAS  
GENERAL OBLIGATION REFUNDING BOND  
SERIES 2021

PRINCIPAL  
AMOUNT  
\$ \_\_\_\_\_

<u>INTEREST RATE</u>	<u>DELIVERY DATE</u>	<u>MATURITY DATE</u>	<u>CUSIP NO.</u>
----------------------	----------------------	----------------------	------------------

REGISTERED OWNER:

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

ON THE MATURITY DATE specified above, the City of Wichita Falls, in Wichita County, Texas, (the "Issuer"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above. The Issuer promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from the Delivery Date specified above at the Interest Rate per annum specified above. Interest is payable on \_\_\_\_\_, \_\_\_\_ and semiannually on each \_\_\_\_\_ and \_\_\_\_\_ thereafter to the Maturity Date specified above, or the date of redemption prior to maturity; except, if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full.

THE PRINCIPAL OF AND INTEREST ON this Bond are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Bond shall be paid to the registered owner hereof upon presentation and surrender of this Bond at maturity, or upon the date fixed for its redemption prior to maturity, at the principal corporate trust office of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, which is the "Paying Agent/Registrar" for this Bond. The payment of interest on this Bond shall be made by the Paying Agent/Registrar to the registered owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the Issuer required by the ordinance authorizing the issuance of this Bond (the "Bond Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the registered owner hereof, at its address as it appeared on the \_\_\_\_\_ business day of the month preceding each such date (the "Record Date") on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Issuer. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Bond appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

ANY ACCRUED INTEREST due at maturity or upon the redemption of this Bond prior to maturity as provided herein shall be paid to the registered owner upon presentation and surrender of this Bond for payment or redemption at the principal corporate trust office of the Paying Agent/Registrar. The Issuer covenants with the

registered owner of this Bond that on or before each principal payment date and interest payment date for this Bond it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Bond Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Bonds, when due.

IF THE DATE for any payment of the principal of or interest on this Bond shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day that is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS BOND is one of a series of Bonds dated \_\_\_\_\_, \_\_\_\_\_, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$\_\_\_\_\_ for the public purposes of refunding certain outstanding obligations of the Issuer set forth in the Pricing Certificate; and to pay the costs incurred in connection with the issuance of the Bonds.

ON \_\_\_\_\_, or on any date thereafter, the Bonds of this series may be redeemed prior to their scheduled maturities, at the option of the Issuer, with funds derived from any available and lawful source, as a whole, or in part, and, if in part, the particular Bonds, or portions thereof, to be redeemed shall be selected and designated by the Issuer (provided that a portion of a Bond may be redeemed only in an integral multiple of \$5,000), at a redemption price equal to the principal amount to be redeemed plus accrued interest to the date fixed for redemption.

THE BONDS scheduled to mature on \_\_\_\_\_ in the years \_\_\_\_ and \_\_\_\_ (the "Term Bonds") are subject to scheduled mandatory redemption by the Paying Agent/Registrar by lot, or by any other customary method that results in a random selection, at a price equal to the principal amount thereof, plus accrued interest to the redemption date, out of moneys available for such purpose in the interest and sinking fund for the Bonds, on the dates and in the respective principal amounts, set forth in the following schedule:

Term Bond		Term Bond	
Maturity: _____, _____		Maturity: _____, _____	
Mandatory Redemption Date	Principal Amount	Mandatory Redemption Date	Principal Amount
_____, _____	\$ _____	_____, _____	\$ _____
_____, _____	_____	_____, _____	_____
_____, _____	_____	_____, _____	_____
_____, _____ (maturity)	_____	_____, _____ (maturity)	_____

The principal amount of Term Bonds of a stated maturity required to be redeemed on any mandatory redemption date pursuant to the operation of the mandatory sinking fund redemption provisions shall be reduced, at the option of the Issuer, by the principal amount of any Term Bonds of the same maturity which, at least forty-five (45) days prior to a mandatory redemption date (1) shall have been acquired by the Issuer at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the Issuer at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase, or (3) shall have been redeemed pursuant to the optional redemption provisions and not theretofore credited against a mandatory redemption requirement.

WITH RESPECT TO ANY OPTIONAL REDEMPTION OF THE BONDS, unless certain prerequisites to such redemption required by this Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the Issuer, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on

or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the Issuer shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

AT LEAST THIRTY (30) DAYS prior to the date fixed for any redemption of Bonds or portions thereof prior to maturity a written notice of such redemption shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, at least thirty (30) days prior to the date fixed for any such redemption, to the registered owner of each Bond to be redeemed at its address as it appeared on the business day prior to the mailing of such redemption notice; provided, however, that the failure of the registered owner to receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Bond. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Bonds or portions thereof that are to be so redeemed. If such written notice of redemption is sent and if due provision for such payment is made, all as provided above, the Bonds or portions thereof that are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the registered owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Bond shall be redeemed, a substitute Bond or Bonds having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the registered owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the registered owner upon the surrender thereof for cancellation, at the expense of the Issuer, all as provided in the Bond Ordinance.

ALL BONDS OF THIS SERIES are issuable solely as fully registered bonds, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Bond Ordinance, this Bond may, at the request of the registered owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered Bonds, without interest coupons, payable to the appropriate registered owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate registered owner, assignee or assignees, as the case may be, upon surrender of this Bond to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Bond Ordinance. Among other requirements for such assignment and transfer, this Bond must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Bond or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Bond or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Bond may be executed by the registered owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Bond or any portion or portions hereof from time to time by the registered owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Bond or portion thereof will be paid by the Issuer. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, conversion, or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) with respect to any Bond or any portion thereof called for redemption prior to maturity, within forty-five (45) days prior to its redemption date.

IN THE EVENT any Paying Agent/Registrar for the Bonds is changed by the Issuer, resigns, or otherwise ceases to act as such, the Issuer has covenanted in the Bond Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the registered owners of the Bonds.

IT IS HEREBY certified, recited and covenanted that this Bond has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Bond have been performed, existed and been done in accordance

with law; and that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Bond, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said Issuer, and have been pledged for such payment, within the limit prescribed by law.

THE ISSUER HAS RESERVED THE RIGHT to amend the Bond Ordinance as provided therein, and under some (but not all) circumstances amendments thereto must be approved by the registered owners of a majority in aggregate principal amount of the outstanding Bonds.

BY BECOMING the registered owner of this Bond, the registered owner thereby acknowledges all of the terms and provisions of the Bond Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Bond Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the Issuer, and agrees that the terms and provisions of this Bond and the Bond Ordinance constitute a contract between each registered owner hereof and the Issuer.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be signed with the manual or facsimile signature of the Mayor of the Issuer (or in the Mayor's absence, the Mayor Pro Tem of the Issuer) and countersigned with the manual or facsimile signature of the City Clerk of said Issuer, and has caused the official seal of the Issuer to be duly impressed, or placed in facsimile, on this Bond.

\_\_\_\_\_  
(signature)  
City Clerk

\_\_\_\_\_  
(signature)  
Mayor

(SEAL)

(b) Form of Paying Agent/Registrar's Authentication Certificate.

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE  
(To be executed if this Bond is not accompanied by an executed  
Registration Certificate of the Comptroller of Public Accounts of the State of Texas)

It is hereby certified that this Bond has been issued under the provisions of the Bond Ordinance described in the text of this Bond; and that this Bond has been issued in conversion or replacement of, or in exchange for, a Bond, Bonds, or a portion of a Bond or Bonds of a series that originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated: \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_  
Paying Agent/Registrar

By: \_\_\_\_\_  
Authorized Representative

(c) Form of Assignment.

ASSIGNMENT

(Please print or type clearly)

For value received, the undersigned hereby sells, assigns and transfers unto: \_\_\_\_\_

Transferee's Social Security or Taxpayer Identification Number: \_\_\_\_\_

Transferee's name and address, including zip code: \_\_\_\_\_

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

\_\_\_\_\_, attorney, to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_.

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a securities transfer association recognized signature guarantee program.

NOTICE: The signature above must correspond with the name of the Registered Owner as it appears upon the front of this Bond in every particular, without alteration or enlargement or any change whatsoever.

(d) Form of Registration Certificate of the Comptroller of Public Accounts.

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.

I hereby certify that there is on file and of record in my office a true and correct copy of the opinion of the Attorney General of the State of Texas approving this Bond and that this Bond has been registered this day by me.

Witness my signature and seal this \_\_\_\_\_.

Comptroller of Public Accounts of the State of Texas

(COMPTROLLER'S SEAL)

(e) Initial Bond Insertions.

(i) The initial Bond shall be in the form set forth is paragraph (a) of this Section, except that:

- A. immediately under the name of the Bond, the headings "Interest Rate" and "Maturity Date" shall both be completed with the words "As shown below" and "CUSIP No. \_\_\_\_" shall be deleted.
- B. the first paragraph shall be deleted and the following will be inserted:

"THE CITY OF WICHITA FALLS, TEXAS, in Wichita County, Texas (the "Issuer"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on \_\_\_\_\_ in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Years(9/1)</u>	<u>Principal Installments</u>	<u>Interest Rates</u>
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(Information from Pricing Certificate to be inserted)

The Issuer promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from \_\_\_\_\_ at the respective Interest Rate per annum specified above. Interest is payable on \_\_\_\_\_, and semiannually on each \_\_\_\_\_ and \_\_\_\_\_ thereafter to the date of payment of the principal installment specified above, or the date of redemption prior to maturity; except, that if this Bond is required to be authenticated and the date of its authentication is later than the first

Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full.”

C. The Initial Bond shall be numbered “T-1.”

#### Section 5. INTEREST AND SINKING FUND.

(a) A special “Interest and Sinking Fund” is hereby created and shall be established and maintained by the Issuer as a separate fund or account and the funds therein shall be deposited into and held in an account at an official depository bank of said Issuer. Said Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of said Issuer, and shall be used only for paying the interest on and principal of said Bonds. All amounts received from the sale of the Bonds as accrued interest shall be deposited upon receipt to the Interest and Sinking Fund and all ad valorem taxes levied and collected for and on account of said Bonds shall be deposited, as collected, to the credit of said Interest and Sinking Fund. During each year while any of said Bonds are outstanding and unpaid, the governing body of said Issuer shall compute and ascertain a rate and amount of ad valorem tax that will be sufficient to raise and produce the money required to pay the interest on said Bonds as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of said Bonds as such principal matures (but never less than 2% of the original amount of said Bonds as a sinking fund each year); and said tax shall be based on the latest approved tax rolls of said Issuer, with full allowances being made for tax delinquencies and the cost of tax collection. Said rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in said Issuer, for each year while any of said Bonds are outstanding and unpaid, and said tax shall be assessed and collected each such year and deposited to the credit of the aforesaid Interest and Sinking Fund. Said ad valorem taxes sufficient to provide for the payment of the interest on and principal of said Bonds, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law. Notwithstanding the requirements of this Section, if lawfully available moneys of the Issuer are on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes that otherwise would have been required to be levied pursuant to this Section may be reduced to the extent and by the amount of the lawfully available funds then on deposit in the Interest and Sinking Fund.

(b) Chapter 1208, Texas Government Code, applies to the issuance of the Bonds and the pledge of the taxes granted by the Issuer under this Section, and is therefore valid, effective, and perfected. Should Texas law be amended at any time while the Bonds are outstanding and unpaid, the result of such amendment being that the pledge of the taxes granted by the Issuer under this Section is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, in order to preserve to the registered owners of the Bonds a security interest in said pledge, the Issuer agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing of a security interest in said pledge to occur.

#### Section 6. DEFEASANCE OF BONDS.

(a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a “Defeased Bond”) within the meaning of this Ordinance, except to the extent provided in subsection (d) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (the “Future Escrow Agreement”) for such payment (1) lawful money of the United States of America sufficient to make such payment or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the Issuer with the Paying Agent/Registrar for the payment of its services until all Defeased Bonds shall have become due and payable. At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits

of, the ad valorem taxes herein levied and pledged as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities. Notwithstanding any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem Defeased Bonds that is made in conjunction with the payment arrangements specified in Subsection (a)(i) or (ii) of this Section shall not be irrevocable, provided that: (1) in the proceedings providing for such payment arrangements, the Issuer expressly reserves the right to call the Defeased Bonds for redemption; (2) gives notice of the reservation of that right to the owners of the Defeased Bonds immediately following the making of the payment arrangements; and (3) directs that notice of the reservation be included in any redemption notices that it authorizes.

(b) Any moneys so deposited with the Paying Agent/Registrar may at the written direction of the Issuer be invested in Defeasance Securities, maturing in the amounts and times as hereinbefore set forth, and all income from such Defeasance Securities received by the Paying Agent/Registrar that is not required for the payment of the Bonds and interest thereon, with respect to which such money has been so deposited, shall be turned over to the Issuer, or deposited as directed in writing by the Issuer. Any Future Escrow Agreement pursuant to which the money and/or Defeasance Securities are held for the payment of Defeased Bonds may contain provisions permitting the investment or reinvestment of such moneys in Defeasance Securities or the substitution of other Defeasance Securities upon the satisfaction of the requirements specified in Subsection (a)(i) or (ii) of this Section. All income from such Defeasance Securities received by the Paying Agent/Registrar which is not required for the payment of the Defeased Bonds, with respect to which such money has been so deposited, shall be remitted to the Issuer or deposited as directed in writing by the Issuer.

(c) The term "Defeasance Securities" means (1) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by the United States; and (2) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the governing body of the Issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent.

(d) Until all Defeased Bonds shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Bonds the same as if they had not been defeased, and the Issuer shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(e) In the event that the Issuer elects to defease less than all of the principal amount of Bonds of a maturity, the Paying Agent/Registrar shall select, or cause to be selected, such amount of Bonds by such random method as it deems fair and appropriate.

#### Section 7. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BONDS.

(a) Replacement Bonds. In the event any outstanding Bond is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new Bond of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Bond, in replacement for such Bond in the manner hereinafter provided.

(b) Application for Replacement Bonds. Application for replacement of damaged, mutilated, lost, stolen or destroyed Bonds shall be made by the registered owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Bond, the registered owner applying for a replacement Bond shall furnish to the Issuer and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Bond, the registered owner shall furnish to the Issuer and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Bond, as the case may be. In every case of damage or mutilation of a Bond, the registered owner shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Bond shall have matured, and no default has occurred that is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Bond, the Issuer may authorize the payment of the same (without

surrender thereof except in the case of a damaged or mutilated Bond) instead of issuing a replacement Bond, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Bonds. Prior to the issuance of any replacement Bond, the Paying Agent/Registrar shall charge the registered owner of such Bond with all legal, printing, and other expenses in connection therewith. Every replacement Bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is lost, stolen or destroyed shall constitute a contractual obligation of the Issuer whether or not the lost, stolen or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Bonds duly issued under this Ordinance.

(e) Authority for Issuing Replacement Bonds. In accordance with Section 1206.022, Texas Government Code, this Section 7 of this Ordinance shall constitute authority for the issuance of any such replacement Bond without necessity of further action by the governing body of the Issuer or any other body or person, and the duty of the replacement of such Bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Bonds in the form and manner and with the effect, as provided in Section 3(b) of this Ordinance for Bonds issued in conversion and exchange for other Bonds.

#### Section 8. CUSTODY, APPROVAL, AND REGISTRATION OF BONDS; BOND COUNSEL'S OPINION; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED; ENGAGEMENT OF BOND COUNSEL.

(a) The Mayor of the Issuer and each of the Pricing Officers is hereby authorized to have control of the Bonds initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Bonds pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Bonds said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Bonds, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Bond. The approving legal opinion of the Issuer's Bond Counsel and the assigned CUSIP numbers may, at the option of the Issuer, be printed on the Bonds issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the registered owners of the Bonds. In addition, if bond insurance is obtained, the Bonds may bear an appropriate legend as provided by the insurer.

(b) The obligation of the initial purchaser to accept delivery of the Bonds is subject to the initial purchaser being furnished with the final, approving opinion of McCall, Parkhurst & Horton L.L.P., bond counsel to the Issuer, which opinion shall be dated as of and delivered on the date of initial delivery of the Bonds to the initial purchaser. The engagement of such firm as bond counsel to the Issuer in connection with issuance, sale and delivery of the Bonds is hereby approved and confirmed.

#### Section 9. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE BONDS.

(a) Covenants. The Issuer covenants to take any action necessary to assure, or refrain from any action that would adversely affect, the treatment of the Bonds as obligations described in section 103 of the Code, the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the Issuer covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Bonds (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds or the projects financed or refinanced by the Bonds (the "Project") are so used, such amounts, whether or not received by the Issuer, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Bonds, in contravention of section 141(b)(2) of the Code;

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Bonds or the projects financed or refinanced therewith (less



amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a “private business use” that is “related” and not “disproportionate,” within the meaning of section 141(b)(3) of the Code, to the governmental use;

(3) to take any action to assure that no amount that is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Bonds (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(4) to refrain from taking any action that would otherwise result in the Bonds being treated as “private activity bonds” within the meaning of section 141(b) of the Code;

(5) to refrain from taking any action that would result in the Bonds being “federally guaranteed” within the meaning of section 149(b) of the Code;

(6) to refrain from using any portion of the proceeds of the Bonds, directly or indirectly, to acquire or to replace funds that were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) that produces a materially higher yield over the term of the Bonds, other than investment property acquired with –

(A) proceeds of the Bonds invested for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds are issued,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Bonds;

(7) to otherwise restrict the use of the proceeds of the Bonds or amounts treated as proceeds of the Bonds, as may be necessary, so that the Bonds do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage);

(8) to refrain from using the proceeds of the Bonds or proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Bonds in contravention of the requirements of section 149(d) of the Code (relating to advance refundings); and

(9) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Bonds) an amount that is at least equal to 90 percent of the “Excess Earnings,” within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Bonds have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code.

(b) Rebate Fund. In order to facilitate compliance with the above covenant (a)(9), a “Rebate Fund” is hereby established by the Issuer for the sole benefit of the United States of America, and such Fund shall not be subject to the claim of any other person, including without limitation the Bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Use of Proceeds. For purposes of the foregoing covenants (a)(1) and (a)(2), the Issuer understands that the term “proceeds” includes “disposition proceeds” as defined in the Treasury Regulations and, in the case of the Bonds, transferred proceeds (if any) and proceeds of the Refunded Obligations expended prior to the date of issuance of the Bonds. It is the understanding of the Issuer that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated that modify or expand provisions of the Code, as applicable to the Bonds, the Issuer will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the

exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated that impose additional requirements applicable to the Bonds, the Issuer agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In furtherance of such intention, the Issuer hereby authorizes and directs the Mayor, the City Manager or the Finance Director to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the Issuer, that may be permitted by the Code as are consistent with the purpose for the issuance of the Bonds.

(d) Disposition of Projects. The Issuer covenants that the property constituting the projects financed or refinanced with the proceeds of the bonds will not be sold or otherwise disposed in a transaction resulting in the receipt by the Issuer of cash or other compensation, unless any action taken in connection with such disposition will not adversely affect the tax-exempt status of the Bonds. For purpose of the foregoing, the Issuer may rely on an opinion of nationally-recognized bond counsel that the action taken in connection with such sale or other disposition will not adversely affect the tax-exempt status of the Bonds. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the Issuer shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

#### Section 10. SALE OF BONDS AND APPROVAL OF OFFICIAL STATEMENT; FURTHER PROCEDURES.

(a) The Bonds shall be sold and delivered subject to the provisions of Section 1 and Section 2 and pursuant to the terms and provisions of a purchase agreement or purchase letter (the "Purchase Agreement") which the Pricing Officer is hereby authorized to execute and deliver and in which the purchaser or purchasers (the "Underwriters") of the Bonds shall be designated. The Bonds shall initially be registered in the name of the purchaser thereof as set forth in the Pricing Certificate.

(b) The Mayor, City Clerk or the Pricing Officer are further authorized and directed to execute and deliver for and on behalf of the Issuer copies of a Preliminary Official Statement and Official Statement, if prepared in connection with the offering of the Bonds by the Underwriters, in final form as may be required by the Underwriters, and such final Official Statement in the form and content as approved by the Pricing Officer or as manually executed by said officials shall be deemed to be approved by the City Council and constitute the Official Statement authorized for distribution and use by the Underwriters. The form and substance of the Preliminary Official Statement for the Bonds and any addenda, supplement or amendment thereto, all as approved by the Pricing Officer, are hereby deemed to be approved in all respects by the City Council, and the Preliminary Official Statement is hereby deemed final as of its date (except for the omission of pricing and related information) within the meaning and for the purpose of paragraph (b)(1) of the Rule (hereinafter defined).

(c) The Pricing Officer is authorized, in connection with effecting the sale of the Bonds, to obtain from a municipal bond insurance company so designated in the Pricing Certificate (the "Insurer") a municipal bond insurance policy (the "Insurance Policy") in support of the Bonds. To that end, should the Pricing Officer exercise such authority and commit the Issuer to obtain a municipal bond insurance policy, for so long as the Insurance Policy is in effect, the requirements of the Insurer relating to the issuance of the Insurance Policy as set forth in the Pricing Certificate are incorporated by reference into this Ordinance and made a part hereof for all purposes, notwithstanding any other provision of this Ordinance to the contrary. The Pricing Officer shall have the authority to execute any documents to effect the issuance of the Insurance Policy by the Insurer.

(d) The Mayor and Mayor Pro Tem, the City Clerk and the Pricing Officers of the Issuer, and each of them, shall be and they are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the Issuer such documents, certificates and other instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Bonds, the sale of the Bonds and the Official Statement. In case any officer whose signature shall appear on any Bond shall cease to be such officer before the

delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 11. COMPLIANCE WITH RULE 15c2-12.

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

“MSRB” means the Municipal Securities Rulemaking Board.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

(b) Annual Reports.

(i) The Issuer shall provide annually to the MSRB, in an electronic format as prescribed by the MSRB, within six (6) months after the end of each fiscal year ending in or after 2021, financial information and operating data with respect to the Issuer of the general type included in the final Official Statement authorized by Section 10 of this Ordinance, being the information described in the Pricing Certificate. The Issuer will additionally provide audited financial statements when and if available, and in any event, within twelve (12) months after the end of each fiscal year ending in or after 2021. If the audit of such financial statements is not complete within twelve (12) months after any such fiscal year end, then the Issuer will file unaudited financial statements within such twelve (12) month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available. Any financial statements so to be provided shall be prepared in accordance with the accounting principles described in Appendix B to the Official Statement, or such other accounting principles as the Issuer may be required to employ from time to time pursuant to state law or regulation.

(ii) If the Issuer changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Issuer otherwise would be required to provide financial information and operating data pursuant to this Section. The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document that is available to the public on the MSRB’s internet website or filed with the SEC. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

(c) Event Notices.

(i) The Issuer shall notify the MSRB in an electronic format as prescribed by the MSRB, in a timely manner (but not in excess of ten (10) business days after the occurrence of the event) of any of the following events with respect to the Bonds:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other events affecting the tax status of the Bonds;
7. Modifications to rights of holders of the Bonds, if material;
8. Certificate calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;

12. Bankruptcy, insolvency, receivership or similar event of the Issuer;
13. The consummation of a merger, consolidation, or acquisition involving the Issuer or the sale of all or substantially all of the assets of the Issuer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. Appointment of a successor trustee or change in the name of the trustee, if material;
15. Incurrence of a financial obligation of the Issuer, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of any such financial obligation of the Issuer, any of which affect security holders, if material; and
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of any such financial obligation of the Issuer, any of which reflect financial difficulties.

As used in clause 12 above, the phrase “bankruptcy, insolvency, receivership or similar event” means the appointment of a receiver, fiscal agent or similar officer for the Issuer in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets of the Issuer, or if jurisdiction has been assumed by leaving the existing City Council and officials or officers of the Issuer in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Issuer. For the purposes of the above describe event notices 15 and 16, the term “financial obligation” means a (i) debt obligation, (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (iii) a guarantee of (i) or (ii); provided however, that a “financial obligation” shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

(ii) The Issuer shall notify the MSRB, in a timely manner, of any failure by the Issuer to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such subsection.

(d) Limitations, Disclaimers, and Amendments.

(i) The Issuer shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the Issuer remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the Issuer in any event will give notice of any deposit made in accordance with this Ordinance or applicable law that causes Bonds no longer to be outstanding.

(ii) The provisions of this Section are for the sole benefit of the registered owners and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Issuer undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Issuer’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The Issuer does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

(iii) UNDER NO CIRCUMSTANCES SHALL THE ISSUER BE LIABLE TO THE REGISTERED OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE ISSUER, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(iv) No default by the Issuer in observing or performing its obligations under this Section shall comprise a breach of or default under this Ordinance for purposes of any other provision of this Ordinance. Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Issuer under federal and state securities laws.

(v) Should the Rule be amended to obligate the Issuer to make filings with or provide notices to entities other than the MSRB, the Issuer hereby agrees to undertake such obligation with respect to the Bonds in accordance with the Rule as amended. The provisions of this Section may be amended by the Issuer from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Issuer, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the registered owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the Issuer (such as nationally recognized bond counsel) determined that such amendment will not materially impair the interest of the registered owners and beneficial owners of the Bonds. The Issuer may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds. If the Issuer so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with subsection (b) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided.

Section 12. METHOD OF AMENDMENT. The Issuer hereby reserves the right to amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The Issuer may from time to time, without the consent of any holder, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance in order to (i) cure any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the holders, (ii) grant additional rights or security for the benefit of the holders, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the holders, (iv) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, or (v) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be inconsistent with the provisions of this Ordinance and that shall not in the opinion of the Issuer's Bond Counsel materially adversely affect the interests of the holders.

(b) Except as provided in paragraph (a) above, the holders of Bonds aggregating in principal amount 51% of the aggregate principal amount of then outstanding Bonds that are the subject of a proposed amendment shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the Issuer; provided, however, that without the consent of 100% of the holders in aggregate principal amount of the then outstanding Bonds, nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in any of the Bonds so as to:

(1) Make any change in the maturity of any of the outstanding Bonds;

(2) Reduce the rate of interest borne by any of the outstanding Bonds;

(3) Reduce the amount of the principal of, or redemption premium, if any, payable on any outstanding Bonds;

(4) Modify the terms of payment of principal or of interest or redemption premium on outstanding Bonds or any of them or impose any condition with respect to such payment; or

(5) Change the minimum percentage of the principal amount of the Bonds necessary for consent to such amendment.

(c) If at any time the Issuer shall desire to amend this Ordinance under this Section, the Issuer shall send by U.S. mail to each registered owner of the affected Bonds a copy of the proposed amendment.

(d) Whenever at any time within one year from the date of mailing of such notice the Issuer shall receive an instrument or instruments executed by the holders of at least 51% in aggregate principal amount of all of the Bonds then outstanding that are required for the amendment, which instrument or instruments shall refer to the proposed amendment and that shall specifically consent to and approve such amendment, the Issuer may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the Issuer and all holders of such affected Bonds shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the holder of a Bond pursuant to the provisions of this Section shall be irrevocable for a period of six (6) months from the date of such consent, and shall be conclusive and binding upon all future holders of the same Bond during such period. Such consent may be revoked at any time after six (6) months from the date of such consent by the holder who gave such consent, or by a successor in title, by filing notice with the Issuer, but such revocation shall not be effective if the holders of 51% in aggregate principal amount of the affected Bonds then outstanding, have, prior to the attempted revocation, consented to and approved the amendment.

For the purposes of establishing ownership of the Bonds, the Issuer shall rely solely upon the registration of the ownership of such Bonds on the registration books kept by the Paying Agent/Registrar.

### Section 13. DEFAULT AND REMEDIES.

(a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the Issuer, the failure to perform which materially, adversely affects the rights of the registered owners of the Bonds, including, but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of sixty (60) days after notice of such default is given by any Registered Owner to the Issuer.

(b) Remedies for Default.

(i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the Issuer for the purpose of protecting and enforcing the rights of the Registered Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies.

(ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Bonds then outstanding.

(c) Remedies Not Exclusive.

(i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance.

(ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(iii) By accepting the delivery of a Bond authorized under this Ordinance, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the Issuer or the City Council.

Section 14. APPROVAL OF ESCROW AGREEMENT AND TRANSFER OF FUNDS. In furtherance of authority granted by Section 1207.007(b), Texas Government Code, the Mayor or the Pricing Officer are further authorized to enter into and execute on behalf of the Issuer with the escrow agent selected and appointed in the Pricing Certificate, an escrow or similar agreement, in the form and substance as shall be approved by the Pricing Officer, which agreement will provide for the payment in full of the Refunded Obligations. In addition, the Mayor or the Pricing Officer is authorized to purchase such securities, to execute such subscriptions for the purchase of the Escrowed Securities (as defined in the agreement), if any, and to authorize such contributions for the escrow fund as provided in the agreement.

#### Section 15. REDEMPTION OF REFUNDED OBLIGATIONS.

(a) Subject to execution and delivery of the Purchase Agreement with the Underwriters, the Issuer hereby directs that the Refunded Obligations be called for redemption on the dates and at such prices as set forth in the Pricing Certificate. The Pricing Officer is hereby authorized and directed to issue or cause to be issued Notice of Redemption of the Refunded Obligations, completed with information from the Pricing Certificate, to the paying agents for the Refunded Obligations.

(b) In addition, the paying agents for the Refunded Obligations are hereby directed to provide the appropriate notices of redemption and defeasance as specified by the ordinances authorizing the issuance of Refunded Obligations and are hereby directed to make appropriate arrangements so that the Refunded Obligations may be redeemed on their redemption dates. The Refunded Obligations shall be presented for redemption at the paying agents therefor, and shall not bear interest after the date fixed for redemption.

(c) If the redemption of the Refunded Obligations results in the partial refunding of any maturity of the Refunded Obligations, the Pricing Officer shall direct the paying agent/registrar for the Refunded Obligations to designate at random and by lot which of the Refunded Obligations will be payable from and secured solely from ad valorem taxes of the Issuer pursuant to the ordinance of the Issuer authorizing the issuance of such Refunded Obligations (the "Refunded Bond Ordinance"). The paying agent/registrar shall notify by first-class mail all registered owners of all affected bonds of such maturities that: (i) a portion of such bonds have been refunded and are secured until final maturity solely with cash and investments maintained by the Escrow Agent in the Escrow Fund, (ii) the principal amount of all affected bonds of such maturities registered in the name of such registered owner that have been refunded and are payable solely from cash and investments in the Escrow Fund and the remaining principal amount of all affected bonds of such maturities registered in the name of such registered owner, if any, have not been refunded and are payable and secured solely from ad valorem taxes of the Issuer described in the Refunded Obligation Ordinance, (iii) the registered owner is required to submit his or her Refunded Obligations to the paying agent/registrar, for the purposes of re-registering such registered owner's bonds and assigning new CUSIP numbers in order to distinguish the source of payment for the principal and interest on such bonds, and (iv) payment of principal of and interest on such bonds may, in some circumstances, be delayed until such bonds have been re-registered and new CUSIP numbers have been assigned as required by (iii) above.

(d) The source of funds for payment of the principal of and interest on the Refunded Obligations on their respective maturity or redemption dates shall be from the funds deposited with the Escrow Agent pursuant to the Escrow Agreement approved in Section 14 of this Ordinance.

Section 16. APPROPRIATION. To pay the debt service coming due on the Bonds, if any (as determined by the Pricing Certificate) prior to receipt of the taxes levied to pay such debt service, there is hereby appropriated from current funds on hand, which are hereby certified to be on hand and available for such purpose, an amount sufficient to pay such debt service, and such amount shall be used for no other purpose.

Section 17. SEVERABILITY. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any persons or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this Ordinance, despite such invalidity, which remaining portions shall remain in full force and effect.

Section 18. EFFECTIVE DATE. In accordance with the provisions of Texas Government Code, Section 1201.028, this Ordinance shall be effective immediately upon its adoption by the City Council.

*(Execution Page Follows)*



DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, this  
\_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
Mayor, City of Wichita Falls, Texas

\_\_\_\_\_  
City Clerk, City of Wichita Falls, Texas

[CITY SEAL]

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney, City of Wichita Falls, Texas

**Schedule I**

**Schedule of Eligible Refunded Obligations**

City of Wichita Falls, Texas Combination Tax and Revenue Certificates of Obligation, Series 2011

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**CITY COUNCIL AGENDA**  
**August 3, 2021**

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**ITEM/SUBJECT:** Ordinance calling a General Election by the qualified voters of the City of Wichita Falls to be held on Tuesday, November 2, 2021, for the purpose of electing a Councilor At-Large, Councilor District 1, and Councilor District 2; and authorizing a contract with Wichita County to furnish election services and equipment.

**INITIATING DEPT:** City Clerk

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**STRATEGIC GOAL:** N/A

**STRATEGIC OBJECTIVE:** N/A

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**COMMENTARY:** The next uniform election date is November 2, 2021.

Places on the ballot will be Councilor At-Large, Councilor District 1, and Councilor District 2.

This Ordinance will order the Election for November 2, 2021, establish the date for a runoff election, if required, and authorize the City Manager to execute a contract with Wichita County to furnish election services and equipment.

The City Clerk recommends approval of the ordinance.

☒ **City Clerk**

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**ASSOCIATED INFORMATION:** Ordinance

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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**Ordinance No. \_\_\_\_\_**

**Ordinance calling a General Election by the qualified voters of the City of Wichita Falls to be held on Tuesday, November 2, 2021, for the purpose of electing a Councilor At-Large, Councilor District 1, and Councilor District 2; and authorizing a contract with Wichita County to furnish election services and equipment**

WHEREAS, in accordance with the TEXAS ELECTION CODE, the TEXAS LOCAL GOVERNMENT CODE, Constitution of the State of Texas, City Charter and general laws, a General Election is hereby called and ordered for the first Tuesday following the first Monday in November, 2021; and,

WHEREAS, the City Clerk has advised the City Council that the next authorized uniform election date is November 2, 2021. The purpose of this Election will be to elect a Councilor At-Large, Councilor District 1, and Councilor District 2.

WHEREAS, the City of Wichita Falls will enter into a joint election agreement and contract for election services with the Wichita County Clerk pursuant to Texas Election Code Sections 272.002 and 31.092.

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

1. A General Election is hereby ordered to be held on the 2<sup>nd</sup> day of November 2021, for the purpose of electing a Councilor At-Large, Councilor District 1, and Councilor District 2.

2. The City Manager is hereby authorized to execute a contract with the Wichita County Clerk for the purposes of having Wichita County furnish all or any portion of the election services and equipment needed by the City Clerk to conduct the election. The contract document and election services provided herein shall conform to Chapter 31, Subchapter D, of the Texas Election Code and other applicable statutes and laws.

3. Such election shall be held at the polling places established by Wichita County. The polls for said election shall be open from 7:00 a.m. to 7:00 p.m.

4. The presiding judges, alternate judges, and clerks shall be appointed by Wichita County and shall be compensated at the rate established by Wichita County for this joint election. The Wichita County Clerk will provide notification and training for early voting and election day workers.

5. An electronic voting system, as defined in Chapter 121 of the Texas Election Code, shall be used for voting at the regular polling locations for said election and for counting the ballots and the tabulation of the results. The conduct of the election and the use of the electronic voting system shall be in accordance with the Texas Election Code.

6. The Wichita County Clerk is designated as the Early Voting Clerk. Early voting by personal appearance shall be conducted beginning October 18, 2021, and end on October 29, 2021. The main Early Voting polling location will be located at:

Wichita County Courthouse  
900 7<sup>th</sup> Street, Room 139  
Wichita Falls, TX 76301

Additional Early Voting polling locations and times will be set by the Wichita County Clerk.

7. Applications for early voting by mail may be delivered no later than October 22, 2021 to:

Lori Bohannon  
Early Voting Clerk  
900 7<sup>th</sup> Street, Room 250  
Wichita Falls, TX 76301  
Email: [Lori.Bohannon@co.wichita.tx.us](mailto:Lori.Bohannon@co.wichita.tx.us)

8. An Early Voting Ballot Board is hereby designated to canvass the early votes cast by mail and provisional ballots. Wichita County shall appoint a Presiding Judge of said Board, and said judge shall appoint such other members as provided in the TEXAS ELECTION CODE, Section 87.002.

9. The County Clerk's Office, located in the County Courthouse, 900 7<sup>th</sup> Street, Room 250, Wichita Falls, Texas, is hereby established as the Central Counting Station to receive and tabulate votes and ballots cast in said election.

10. The election materials as outlined in Chapter 272, TEXAS ELECTION CODE, shall be printed in both English and Spanish for use at the polling places and for early voting for said election.

11. In the event no candidate receives a majority of votes for an office, a runoff election will be held in accordance with Texas Election Code Chapter 2, Subchapter B, on a date agreed to between the City of Wichita Falls and Wichita County, but no earlier than the 20<sup>th</sup> day before or later than the 45<sup>th</sup> day after the date the final canvass is completed.

12. The Mayor is authorized to sign the Order of Election and Notice of General Election. The Notice of General Election shall be published in accordance with the provisions of the TEXAS ELECTION CODE and the City Charter. The City Clerk, in consultation with the City Attorney, is hereby authorized and directed to take any and all

actions necessary to comply with the provisions of federal law, state law, and charter provisions in conducting the election, whether or not expressly authorized herein.

12. This Ordinance is effective immediately upon its passage and approval.

PASSED AND APPROVED this the 3<sup>rd</sup> day of August, 2021.

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M A Y O R

ATTEST:

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City Clerk

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**CITY COUNCIL AGENDA**  
**August 3, 2021**

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**ITEM/SUBJECT:** Ordinance authorizing the City Manager to execute all documents necessary to apply for and accept \$1 million in Federal Aviation Administration Entitlement grants for debt service and other projects at Wichita Falls Regional Airport and appropriating said funds to the FAA Airport Improvement Grant 2021 Fund.

**INITIATING DEPT:** Aviation, Traffic, & Transportation

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**STRATEGIC GOAL:** Provide quality infrastructure

**STRATEGIC OBJECTIVE:** Upgrade or replace outdated public facilities

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The City of Wichita Falls has the opportunity to receive \$1 million in entitlement funds from the Federal Aviation Administration (FAA) to be distributed as follows:

• Debt Service/Bond Repayment	\$300,000
• Airfield Striping	\$100,000
• Airport Law Enforcement Vehicle	\$50,000
• Apron Concrete Panel Replacement	\$150,000
• Other Projects (as identified)	\$400,000

There will be no local match requirements on the FAA funds used for the bond repayment because of the City's expenditures and internal funding commitments to date on the Terminal Area Project. The remaining projects will incur \$77,778 in local match requirements, and it is anticipated that the City will use pandemic funds for this amount.

Staff recommends approval of the ordinance.

☒ **Director, Aviation, Traffic, & Transportation**

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**ASSOCIATED INFORMATION:** Ordinance

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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Ordinance No. \_\_\_\_\_

**Ordinance authorizing the City Manager to execute all documents necessary to apply for and accept \$1 million in Federal Aviation Administration Entitlement grants for debt service at Wichita Falls Regional Airport and appropriating said funds to the FAA Airport Improvement Grant 2021 Fund**

WHEREAS, the City of Wichita Falls has assumed responsibility from Sheppard Air Force Base in its lease agreement for the repair and maintenance of leased property at Wichita Falls Regional Airport; and

WHEREAS, the City has identified the need for using Federal Aviation Administration Entitlement funds for debt service requirements on the Terminal Area Project and other Airport projects; and

WHEREAS, the City desires to apply for \$1 million of Federal Aviation Administration Entitlement funds; and

WHEREAS, the City anticipates using FAA Entitlement funds for debt service.

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

The City Manager is hereby authorized to execute all documents necessary to pursue, apply for, and accept the aforementioned Federal Aviation Administration grant for the use of Entitlement funds for debt service related to the Terminal Area Project at Wichita Falls Regional Airport, and said funds are hereby appropriated to the FAA Airport Improvement Project Grant 2021 Fund.

PASSED AND APPROVED this the 3<sup>rd</sup> day of August, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk



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**CITY COUNCIL AGENDA**  
**August 3, 2021**

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**ITEM/SUBJECT:** Ordinance authorizing the City Manager to execute all documents necessary to apply for and accept up to \$50,000 in Texas Department of Transportation Aviation Division Routine Airport Maintenance Program (RAMP) Funds for FY 2022 Projects at Kickapoo Downtown Airport and appropriating said funds and the City's match of \$50,000 into the Special Revenue Fund.

**INITIATING DEPT:** Aviation, Traffic, & Transportation

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**STRATEGIC GOAL:** Provide Quality Infrastructure

**STRATEGIC OBJECTIVE:** Evaluate Alternative Funding Options for...Improvements

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**COMMENTARY:** The Routine Airport Maintenance Program (RAMP) is sponsored by the Texas Department of Transportation's (TxDOT) Airports Division. This is a 50% matching program where TxDOT allows for reimbursement on various projects up to \$50,000. As a result, the City's local match is \$50,000 for a combined scope of impact of \$100,000.

The program includes "lower cost" airside and landside airport capital/maintenance improvements. Examples of eligible airside projects include runway repair/maintenance, pavement markings, sweeping, airfield lighting repairs and herbicide applications. Landside projects include drainage projects, fencing, automated weather equipment repair, terminal and hanger repair, and security cameras. The City of Wichita Falls will pay the invoice on the project, and then request reimbursement from TxDOT for 50% of the eligible work.

The RAMP grant is an item budgeted within the Kickapoo Downtown Airports Division for FY 2022. As a result, matching funds are available to participate in this program. Approval will allow City staff to begin reimbursement activities for future projects beginning October 1, 2021.

Staff recommends approval of the ordinance.

☒ **Director, Aviation, Traffic, & Transportation**

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**ASSOCIATED INFORMATION:** Ordinance

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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Resolution No. \_\_\_\_\_

**Ordinance authorizing the City Manager to execute all documents necessary to apply for and accept up to \$50,000 in Texas Department of Transportation Aviation Division Routine Airport Maintenance Program (RAMP) Funds for FY 2022 Projects at Kickapoo Downtown Airport and appropriating said funds and the City's match of \$50,000 into the Special Revenue Fund**

WHEREAS, the City of Wichita Falls is responsible for repair and maintenance items at Kickapoo Downtown Airport; and the City desires to maintain the Airport to better serve general aviation operations; and

WHEREAS, possible funding for such project repair and maintenance items may be available from the Texas Department of Transportation's Aviation Division beginning October 1, 2021; and

WHEREAS, the City will apply for reimbursement from the Texas Department of Transportation's Routine Airport Maintenance Program up to \$50,000 for assistance in completing various repair and maintenance items; and

WHEREAS, approval of these funds has been anticipated prior to the adoption of the Airport's FY 2021 – FY 2022 budget.

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

The City Manager is authorized to execute all documents necessary to pursue, apply for, and accept Texas Department of Transportation Aviation Division Routine Airport Maintenance Program funds for FY 2022 for repair and maintenance work at Kickapoo Downtown Airport, as described above. There is hereby appropriated into the Special Revenue Fund \$50,000 from the Texas Department of Transportation and \$50,000 from the Airport Fund for the above-described activities.

PASSED AND APPROVED this the 3<sup>rd</sup> day of August, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

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**CITY COUNCIL AGENDA**  
**August 3, 2021**

---

**ITEM/SUBJECT:** Ordinance authorizing the City Manager to execute all documents necessary to apply for and accept up to \$50,000 in Texas Department of Transportation Aviation Division Routine Airport Maintenance Program (RAMP) Funds for FY 2022 Projects at Wichita Falls Regional Airport and appropriating said funds and the City's match of \$50,000 into the Special Revenue Fund.

**INITIATING DEPT:** Aviation, Traffic, & Transportation

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**STRATEGIC GOAL:** Provide Quality Infrastructure

**STRATEGIC OBJECTIVE:** Evaluate Alternative Options of Financing...Improvements

---

**COMMENTARY:** The Routine Airport Maintenance Program (RAMP) is sponsored by the Texas Department of Transportation's (TxDOT) Airports Division. This is a 50% matching program where TxDOT allows for reimbursement on various projects up to \$50,000. As a result, the City's local match is \$50,000 for a combined scope of impact of \$100,000.

The program includes "lower cost" airside and landside airport capital/maintenance improvements. Examples of eligible airside projects include runway repair/ maintenance, pavement markings, sweeping, airfield lighting repairs and herbicide applications. Landside projects include drainage projects, fencing, automated weather equipment repair, parking equipment, passenger boarding bridge, terminal and hanger repair, and security cameras. The City of Wichita Falls will pay the invoice on the project, and then request reimbursement from TxDOT for 50% of the eligible work.

The RAMP grant is an item budgeted within the Wichita Falls Regional Airports Division for FY 2022. As a result, matching funds are available to participate in this program. Approval will allow City staff to begin reimbursement activities for future projects beginning October 1, 2021.

Staff recommends approval of the ordinance.

☒ **Director, Aviation, Traffic, & Transportation**

---

**ASSOCIATED INFORMATION:** Ordinance

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

---

Resolution No. \_\_\_\_\_

**Ordinance authorizing the City Manager to execute all documents necessary to apply for and accept up to \$50,000 in Texas Department of Transportation Aviation Division Routine Airport Maintenance Program (RAMP) Funds for FY 2022 Projects at Wichita Falls Regional Airport and appropriating said funds and the City's match of \$50,000 into the Special Revenue Fund**

WHEREAS, the City of Wichita Falls is responsible for repair and maintenance items at Wichita Falls Regional Airport; and the City desires to maintain the Airport to better serve both commercial, military, and general aviation operations; and

WHEREAS, possible funding for such project repair and maintenance items may be available from the Texas Department of Transportation's Aviation Division beginning October 1, 2021; and

WHEREAS, the City will apply for reimbursement from the Texas Department of Transportation's Routine Airport Maintenance Program up to \$50,000 for assistance in completing various repair and maintenance items; and

WHEREAS, approval of these funds has been anticipated prior to the adoption of the Airport's FY 2021 – FY 2022 budget.

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

The City Manager is authorized to execute all documents necessary to pursue, apply for, and accept Texas Department of Transportation Aviation Division Routine Airport Maintenance Program funds for FY 2022 for repair and maintenance work at Wichita Falls Regional Airport, as described above. There is hereby appropriated into the Special Revenue Fund \$50,000 from the Texas Department of Transportation and \$50,000 from the Airport Fund for the above-described activities.

PASSED AND APPROVED this the 3<sup>rd</sup> day of August, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

---

## CITY COUNCIL AGENDA

### August 3, 2021

---

**ITEM/SUBJECT:** Public hearing and consideration to rezone +/- 4.06 acres of land located at 504 Kemp Boulevard (Lot 1-A, Block J&I, Kemp West End Addition & 0.325 acres out of Block I, Kemp's West End Addition), from Multi-Family Residential (MFR) to General Commercial (GC) zoning district to allow for the expansion of commercial uses and development of a mixed use site; and amend the Land Use Plan from High Density Residential to Commercial.

**INITIATING DEPT:** Development Services/ Planning

---

**STRATEGIC GOAL:** Accelerate Economic Growth

**STRATEGIC OBJECTIVE:** Revitalize Depressed and Declining Neighborhoods

---

**COMMENTARY:**

- June 2, 2021 – Staff met with the owner to discuss the remodel of the site to build a grocery/ convenience store. Staff advised of the need to rezone to allow for the use, and the applicant, Ambreen Farooq, submitted an application.
- June 25, 2021 – Planning staff mailed notifications of the proposed rezone to property owners within 200 feet of the subject property. Rezone signage was posted at the property notifying of the July 14, 2021 P&Z meeting.
- June 27, 2021 – Notice of July 14, 2021 P&Z public hearing published in the Times Record News (TRN).
- July 14, 2021 – P&Z conducts public hearing and recommends to the City Council approval of the rezoning requested by unanimous vote.
- July 16, 2021 - Notice of August 3, 2021 City Council public hearing mailed to all property owners within 200 feet of the subject property. Posted rezone signage revised to list city council public hearing date.
- July 18, 2021 - Notice of August 3, 2021 City Council public hearing published in TRN.
- August 3, 2021 – City Council scheduled to conduct public hearing and consider ordinance rezoning the subject property.

Ambreen Farooq, the applicant, recently acquired the 142-unit apartment complex (Stone Ridge Apartments) located near the intersection of Kemp/Seymour Hwy. Mrs. Farooq is the owner of multiple longstanding commercial properties, including various convenience stores and other multi-family residential sites. To rebrand and improve the amenities for the tenants, the applicant met with staff to discuss remodeling multiple units to convert them into a grocery store offering fresh foods and household items. During the meeting staff advised of the developmental requirements to allow for the proposed remodel, and the current zoning designation was identified as prohibiting the proposed use. However,

after analyzing the Land Use Plan and adjacent zoning districts/ uses, staff advised Mrs. Farooq, staff would support rezoning the property to allow for the expansion of uses to allow for a mixed-use commercial site.

### **Evaluation Criteria**

From Kell Blvd. to Seymour Highway, the northern portion of Kemp Blvd has gone through multiple efforts to stimulate economic development through zoning. There were multiple rezones, including creating the Commercial Corridor District and a Planned Unit Development, currently Fox Hill Restaurant and Gardens. The lot sizes, allowed uses, and the Commercial Corridor and Multi-Family Residential developmental regulations have created a lull in development where other thoroughfares of similar measures have flourished. The Fox Hill Restaurant & Gardens have shown a thoughtful development can have success on the north portion of Kemp Blvd.

When traveling through Kemp Boulevard and Seymour Highway, the uses would indicate a commercial designation. To the north of the subject site are multiple commercial uses, including a vacant strip center, a pawn shop, a tire shop, and a convenience store, all within a General Commercial Zoning District. To the south is the Planned Unit Development occupied by Fox Hill restaurant, followed by residential uses within a Single Family 2 district. To the east of the site is a multi-family complex, also owned by Mrs. Farooq, and the rear of large residential lots all fronting Fillmore St. To the West are residential uses all within a Single Family 2 district. With the existing commercial uses to the south and north, a rezone to General Commercial will allow for subsequent development of the large lot properties to the south.

1. **Changed Conditions:** Over the years, the existing grocery stores (Kings and Brookshires) that supported the surrounding neighborhoods have closed, leaving a void of easily accessible fresh food. The north section of Kemp Blvd has seen few new developments over the years. The majority of the recent developments are within the General Commercial District (Urban Air, Chicken Express) and one new notable development within the Commercial Corridor (Roy's Wash).
2. **Relationship to the Comprehensive Plan:** The current designation is High-Density Residential; however, to the north is a Commercial designation. The proposed rezone includes an amendment to designate the subject lot and ROW as Commercial to mirror the north side of Kemp Blvd.
3. **The nature and degree of impact upon neighboring lands:** The development intends to support the needs of both of Mrs. Farooq's apartment complexes. However, it will also serve the neighboring residential uses. The owner and staff anticipate that a majority of the patrons will walk to the grocery store. The proposed remodel is to be located in the northeast portion of the property, furthest away from any existing residential uses. As for any new vehicular traffic, both Kemp and Seymour would support the flow to and from the site.

### **Staff and Planning & Zoning Commission Recommendations**

The Planning & Zoning Commission convened on July 14, 2021 to consider the rezoning case with staff's favorable recommendation for approval to allow for the expansion of commercial uses. The commission unanimously recommended the zoning change from Multi-Family Residential (MFR) to General Commercial (GC) (Exhibit F – Planning & Zoning Commission Minutes Excerpt).

If Council approves the rezone to General Commercial (GC), the applicant is subject to all other zoning and building code regulations for commercial-related project; particularly adhering to any zoning requirements that may help lessen potential impacts to the adjacent properties. Rezoning the tracts to General Commercial (GC) would be in harmony with the area. The property would expand uses for the area leading to potential increase in economic opportunities.

Staff recommends approval of the proposed rezoning request of +/- 4.06 acres at 504 Kemp Boulevard to General Commercial (GC), and amending the Land Use Plan designation to Commercial.

☒ **Assistant City Manager**

☒ **Director of Development Services**

---

**ASSOCIATED INFORMATION:** Exhibit A – Aerial Map; Exhibit B – Photos of Subject Property & Area; Exhibit C – Notification Response Map; Exhibit D – Zoning & Land Use Map; Exhibit E – Allowed Uses in General Commercial; Exhibit F – Planning & Zoning Commission – July 2021 Minutes Excerpt; Ordinance; Attachments 1 and 2.

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

---

## Exhibit A – Aerial Location Map



### R 21-04 504 Kemp Boulevard Aerial Map

CITY OF WICHITA FALLS, PLANNING DIVISION  
MAP PRODUCED BY: Cedric Hu  
DATE PRODUCED: 2 June 2021

Disclaimer  
The City of Wichita Falls has attempted to verify the accuracy of the information contained in the following map at the time of publication. The City of Wichita Falls assumes no liability for any errors, omissions, or inaccuracies in the information provided regardless of how caused. This product is for informational purposes only and may not have been prepared for or be suitable for legal, engineering, or planning purposes. It does not represent an on-the-ground survey and does not constitute a warranty of title or property boundaries.

#### Legend

- Subject Property
- Parcels



## EXHIBIT B - Rezoning Request – 504 Kemp Boulevard

Photo 1 – View of Subject Property from Kemp Blvd.



Photo 2 – View east from the subject property along Kemp Blvd



## EXHIBIT B Cont. - Rezoning Request – 504 Kemp Boulevard

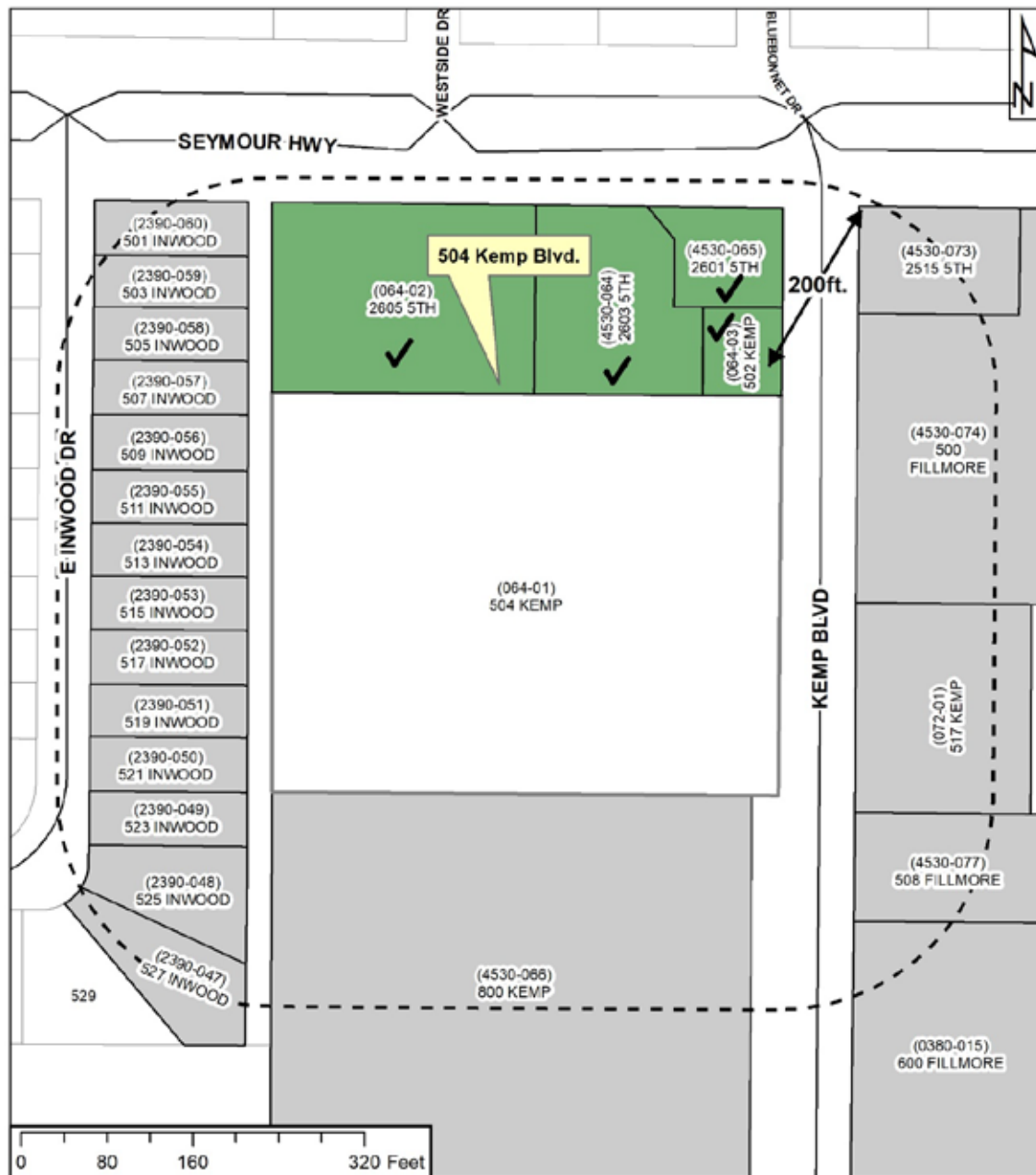
Photo 3 – North view from Subject Property along Kemp Blvd.



Photo 4– South view from the property along Kemp Blvd.



## Exhibit C – Notification Map



### R 21-04 504 Kemp Boulevard Notification Response Map

CITY OF MICHITA FALLS, PLANNING DIVISION  
MAP PRODUCED BY: Cedric Hu  
DATE PRODUCED: 22 July 2021

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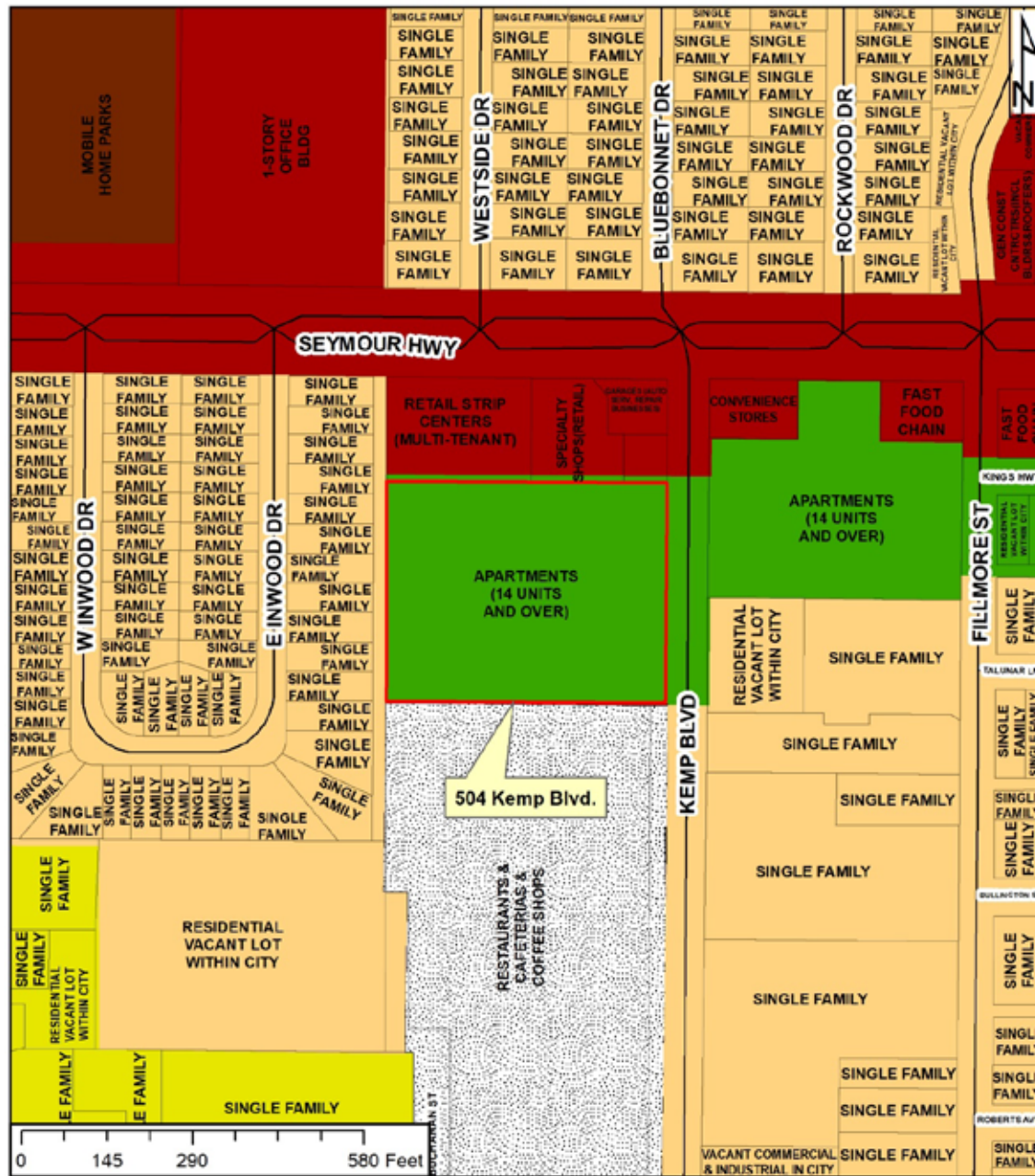
✓ In Favor  
X Opposed  
U Undecided/No Opinion  
MH Manufactured Home

#### Legend

Subject Property  
Notification Buffer  
Notified Properties  
Parcels



## Exhibit D – Zoning & Land Use Map



### R 21-04 504 Kemp Boulevard Zoning and Land Use Map

CITY OF WICHITA FALLS, PLANNING DIVISION  
MAP PRODUCED BY: Cedric Hu  
DATE PRODUCED: 2 June 2021

Disclaimer  
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Legend	
<span style="border: 1px solid red; display: inline-block; width: 20px; height: 10px;"></span> Subject Property	<span style="background-color: green; display: inline-block; width: 20px; height: 10px;"></span> Multi-Family Residential
<span style="border: 1px solid black; display: inline-block; width: 20px; height: 10px;"></span> Parcels	<span style="background-color: brown; display: inline-block; width: 20px; height: 10px;"></span> Mobile Home Residential
<b>Zoning</b>	<span style="background-color: red; display: inline-block; width: 20px; height: 10px;"></span> General Commercial
<span style="background-color: yellow; display: inline-block; width: 20px; height: 10px;"></span> Single Family 1	<span style="background: repeating-linear-gradient(45deg, transparent, transparent 2px, black 2px, black 4px); display: inline-block; width: 20px; height: 10px;"></span> Planned Unit Development
<span style="background-color: orange; display: inline-block; width: 20px; height: 10px;"></span> Single Family 2	

**Exhibit E**  
**General Commercial (GC) Zoning District**

**The following uses are permitted without any further review by the Planning and Zoning Commission. For additional regulations or definitions, contact the Planning Division.**

**Residential uses:**

Dwelling, duplex two-family  
Dwelling, single-family detached  
Group homes  
Personal care homes

**The following uses are permitted subject to submittal of a site plan and review by the Planning Division.**

**Residential uses:**

Bed and breakfast homestay  
Boardinghouse  
Condominium, residential  
Dwelling, multifamily  
Dwelling, zero lot line, single-family  
Fraternity and sorority houses  
Townhouse, residential

**Civic uses:**

Cemetery  
College and University  
Day care centers, limited and commercial  
Library, public  
Parks  
Public safety services  
Religious assembly  
Residential care facility  
School, primary and secondary  
Utility service

**Commercial uses:**

Alcoholic beverage sales, subject to the provisions of [section 5400](#).  
Art gallery/museum.  
Automotive sales and service  
Automotive service station  
Bed and breakfast inn  
Boat sales and service  
Business and trade schools  
Car wash

## Exhibit E Continued

Clinic  
Club  
Coin-operated amusement machines establishment, as regulated by [section 5905](#).  
Convenience store  
Donation box  
Exterminating services, without chemical storage  
Funeral home  
Hospital  
Hotel  
Indoor sports and recreation  
Medical office  
Motel  
Movie Theater  
Nursery  
Offices  
Oil drilling  
Repair services  
Restaurants  
Retail trade  
Self-storage facilities/mini-warehouse  
Services  
Shopping center  
Veterinary services

**The following uses are permitted following approval by the Planning and Zoning Commission for a Conditional Use Permit:**

**Commercial uses:**

Alcoholic beverage sales, subject to the provisions of [section 5400](#).  
Automotive repair service  
Bus station  
Community residential center  
Contractor's yard  
Flea market  
Halfway house  
Kennel  
Light manufacturing  
Manufacturing homes  
Outdoor entertainment and recreation  
Outdoor Food Court  
Outdoor storage  
Parking facility  
Recreational vehicle park  
Warehousing facility

## Exhibit F

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### MINUTES – EXCERPT PLANNING & ZONING COMMISSION

July 14, 2021

**PRESENT:**

Jack Browne  
David Cook  
Blake Haney  
Steve Lane  
Noros Martin  
Mark McBurnett  
Cayce Wendeborn  
Jeremy Woodward  
Councilor Whiteley

u Member  
u Chairman  
u Member  
u Member  
u Member  
u SAFB Liaison  
u Member  
u Vice-Chair  
u Council Liaison

James McKechnie, Senior Asst. City Attorney  
Fabian Medellin, Planner III  
Christal Ashcraft, Development Services Admin. Asst.  
Pat Hoffman, Property Management Administrator  
Cedric Hu, Planning Technician

u City Staff  
u  
u  
u  
u

**ABSENT:**

Michael Grassi  
Anthony Inman  
Dan Leslie  
Wayne Pharries

u Member  
u Member  
u Alternate #1  
u Alternate #2

---

#### Case 21-04 504 Kemp Boulevard

Public hearing and consideration of a request to rezone +/- 4.06 acres of land located at 504 Kemp Boulevard (Lot 1-A, Block J&I, Kemp West End Addition & 0.325 acres out of Block I, Kemp's West End Addition), from Multi-Family Residential (MFR) to General Commercial (GC) zoning district and amend the Land Use Plan from High Density Residential to Commercial to allow for the expansion of commercial uses and development of a mixed use site.

- a) Public Hearing
- b) Take Action

## **Exhibit F Continued**

Chairman Cook opened the public hearing at 2:24 p.m. and asked staff to present the case. Mr. Medellin advised the apartment complex property owner, seeking to improve her complex and add some additional amenities to the facilities, reached out to staff with the proposal to remodel her current office and a number of units to allow for an on-site grocery/convenient store.

The property owner, Ambreen Farooq, Samra Properties LLC, owns two apartment complexes, one at the subject property of 504 Kemp Boulevard and the other across the street at 500 Fillmore Street. Ms. Farooq had the idea since there have been a number of grocery store closing in the area, and this would be an added amenity not only her tenants could use but also the adjacent properties and residential neighbors. Mr. Medellin stated the subject property is located at the southwest corner of Kemp Boulevard and Seymour Highway. To the west is a residential subdivision, to the north are commercial uses, being a strip center, retail store, convenient store, a tire shop and a vacant commercial structure. To the east is the other apartment complex owner by the applicant. To the south is the farm to table restaurant, Fox Hill and to southeast the rear of some residential properties.

Ms. Farooq's proposal is to remodel the northeast corner where her office located in addition to two units to allow for the grocery/convenient store where she will sell fresh produce and fruits to the general public, primarily pedestrians. The zoning along Seymour Highway is all General Commercial (GC) and to the south is a Planned Unit Development (PUD) for the ag/restaurant use. The apartments are both located in the Residential Mixed Use (RMU) zoning district.

Mr. Medellin advised the Commission, that while researching the case, staff noted the appearance of the surrounding area to appear to be General Commercial (GC). Staff feels this rezone will help stimulate further economic development along the north portion of Kemp Boulevard. Ms. Farooq is proposing to redraw the boundaries of the General Commercial (GC) district to include her property to the south of the Seymour Highway commercial corridor and amend the land use plan from High Density Residential to Commercial

Planning staff notified 25 property owners and received a total of 4 responses, all in favor of this rezone. Staff recommends approval of the proposed rezoning request of +/- 4.06 acres at 504 Kemp Boulevard to General Commercial (GC), and amending the Land Use Plan designation to Commercial.

Chairman Cook asked if the applicant was present and wished to comment, then asked if there were any other public comments. With no response, Mr. Cook closed the public discussion at 2:27 pm and opened discussion to the Commission. With no discussion from the Commission, Mr. Cook called for a motion. Ms. Casey Wendeborn made a motion to recommend rezone to City Council, Mr. Jeremy Woodward seconded. Motion passed unanimously with a 6-0 vote. It is noted Mr. Jack Browne had recused himself and did not vote.



Ordinance No. \_\_\_\_\_

**Ordinance rezoning approximately +/- 4.06 acres of land located at 504 Kemp Boulevard (Lot 1-A, Block J&I, Kemp West End Addition & 0.325 acres out of Block I, Kemp's West End Addition), from Multi-Family Residential (MFR) to General Commercial (GC) zoning district and amend the Land Use Plan from High Density Residential to Commercial**

WHEREAS, the Planning and Zoning Commission considered the proposed zoning change at its July 14, 2021 meeting, and voted to recommend approval of this request; and

WHEREAS, the City Council has reviewed this request and has determined the herein described Zoning amendment is in the public interest.

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

1. Lot 1-A, Block J&I, Kemp West End Addition & 0.325 acres out of Block I, Kemp's West End Addition (504 Kemp Boulevard – +/- 4.06 acres), as depicted on the attached map incorporated in this ordinance as **Attachment "A"**, is hereby rezoned from Multi-Family Residential (MFR) to General Commercial (GC).
2. The area on the Land Use Map, as depicted on the attached map incorporated in this ordinance as **Attachment "B"**, is hereby amended to change the area from High Density Residential to Commercial.

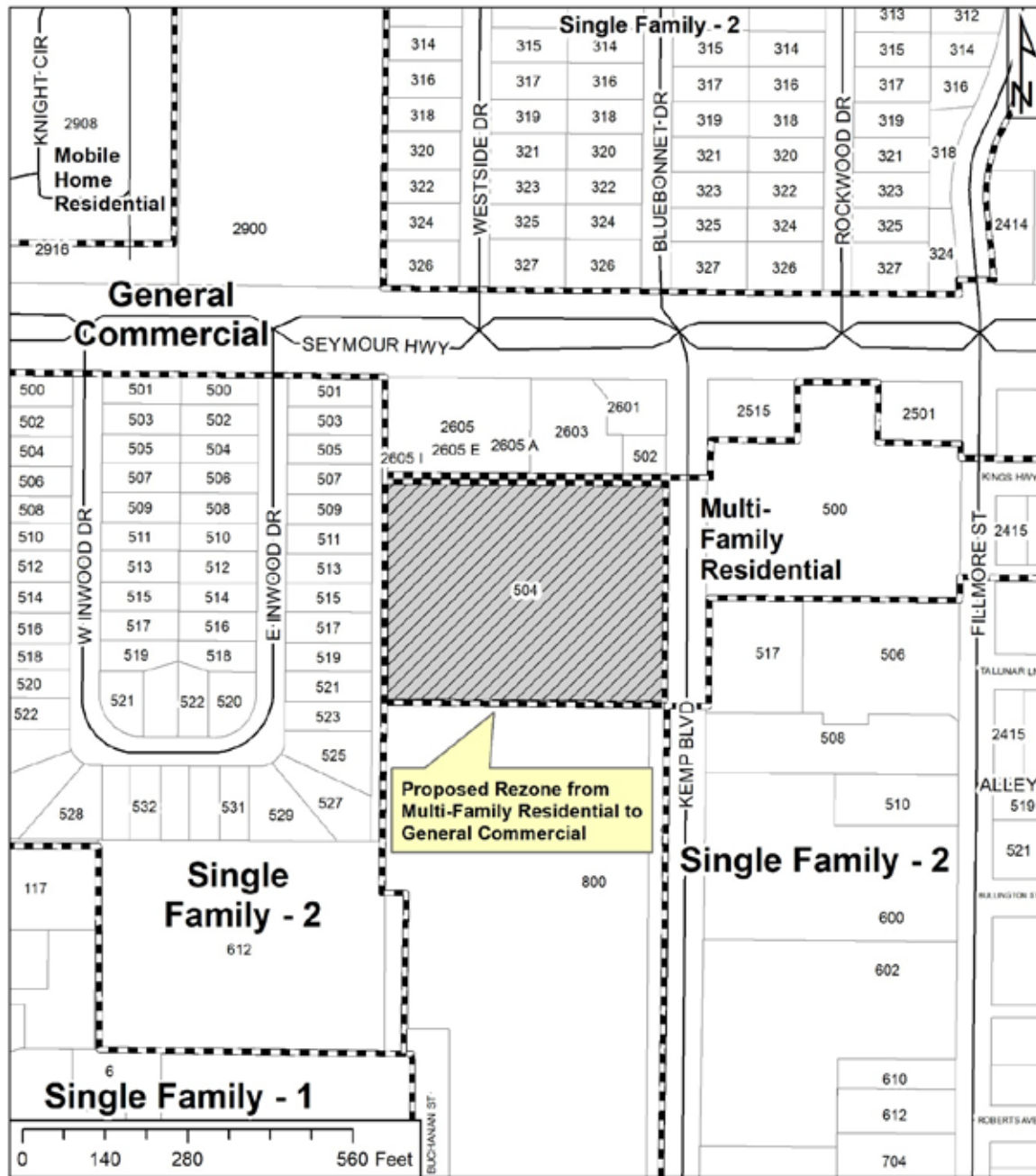
PASSED AND APPROVED this the \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

## Attachment "A"







### R 21-04 504 Kemp Boulevard Rezone Map

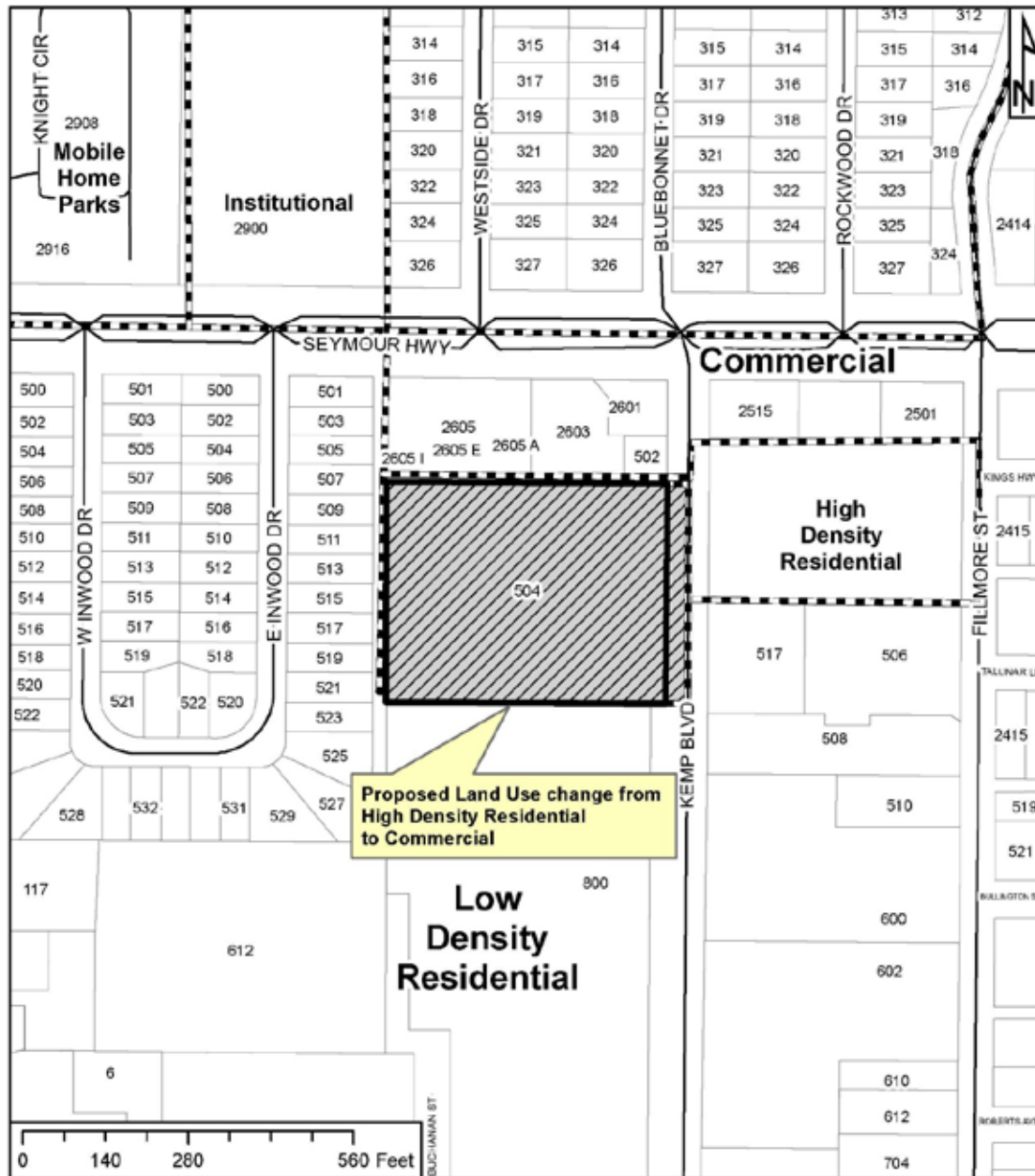
CITY OF WICHITA FALLS, PLANNING DIVISION  
MAP PRODUCED BY: Cedric Hu  
DATE PRODUCED: 3 June 2021

DISCLAIMER:  
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#### Legend

-  Zoning Boundary
-  Rezone Area
-  Subject Property
-  Parcels

## Attachment "B"







### R 21-04 504 Kemp Boulevard Land Use Map

CITY OF WICHITA FALLS, PLANNING DIVISION  
MAP PRODUCED BY: Cedric Hu  
DATE PRODUCED: 6 July 2021

Disclaimer:  
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#### Legend

-  Subject Property
-  Proposed Land Use
-  Land Use Plan Boundary
-  Parcels

---

## **CITY COUNCIL AGENDA**

### **August 3, 2021**

---

**ITEM/SUBJECT:** Public hearing and consideration to rezone +/- 25.91 acres of land located at 4314 Barnett Road (+/- 25.91 AC out of Block 11 of the Kemps Subdivision of the William Myers Survey Abstract 193 & Blocks 18 & 19, League 1, of the Denton County School Lands, Abstract 58), from Single Family-2 Residential (SF-2) to Light Industrial (LI) and Heavy Industrial (HI) zoning districts to provide consistent zoning designation within a split zoned tract and align the districts with the adjacent tracts; and amend the Land Use Plan from Parks to Industrial.

**INITIATING DEPT:** Development Services/ Planning

---

**STRATEGIC GOAL:** Efficiently Deliver City Services

**STRATEGIC OBJECTIVE:** Practice Effective Governance

---

**COMMENTARY:**

- June 11, 2021 – Staff met with the owner to discuss a split zoned tract and future development potential. The owner and staff agreed a rezone should be submitted to align with the adjacent districts, and the owner submitted a rezone application.
- June 25, 2021 – Planning staff mailed notifications of the proposed rezone to property owners within 200 feet of the subject property. Rezone signage was posted at the property notifying of the July 14, 2021 P&Z meeting.
- June 27, 2021 – Notice of July 14, 2021 P&Z public hearing published in the Times Record News (TRN).
- July 14, 2021 – P&Z conducts public hearing and recommends to the City Council approval of the rezoning requested by unanimous vote.
- July 16, 2021 - Notice of August 3, 2021 City Council public hearing mailed to all property owners within 200 feet of the subject property. Posted rezone signage revised to list city council public hearing date.
- July 18, 2021 - Notice of August 3, 2021 City Council public hearing published in TRN.
- August 3, 2021 – City Council scheduled to conduct public hearing and consider ordinance rezoning the subject property.

In April 1985, the City of Wichita Falls adopted its first zoning ordinance. Since the early 1900s, the practice of zoning was intended to promote harmonious development through the separation and grouping of specific land uses. The zoning method looks at current and future trends and distribution of resources and access to determine the highest, the best use for a given area. Often, trends, development patterns, and growth change the highest, best use of a property. That is the case for this particular rezone petition in which

Barwise Capital LLC, the applicant, is seeking to realign the existing zoning with a designation fitting of the current and future development.

The subject site is just under 65 acres and is split into four separate zoning districts. The tract was also included in two separate annexations in 1972 and 2009. The portion of the lot annexed in 1972 was given the zoning designation of Single Family 2 zoning designation in 1985. It consisted of undeveloped land and a single residential use along the Kell frontage. The portion of the property annexed in 2009 is an industrial site previously the Certain-Teed Mfg. and currently Eagle Rail Car Services.

At both times a zoning designation was assigned, the district's bounds were limited to the existing uses and boundaries of the portions of the annexed areas. This assignment has created a pocket of Single Family 2 along Kell Blvd. surrounded by Light Industrial and General Commercial and another pocket wedged between Heavy Industrial and a sizeable electrical easement. The applicants' proposed rezone will correct the pockets of Single Family – 2 surrounded by incompatible uses and use the 75' electrical easement as a dividing line separating commercial from residential.

### **Evaluation Criteria**

The proposed zoning changes differ from the typical owner/ developer petition. However, the property owner and staff recognized the opportunity to correct the district designation to align with current development and district with similar uses and impacts. This petition attempts to provide further protections to the established residences and expand prime property for commercial services.

1. **Changed Conditions:** When the city's zoning ordinance was implemented, staff and council recognized the potential for commercial development along the Kell Blvd. frontage, excluding the residential pocket on the frontage. Also, they recognized the continuation of residential uses to the south of the frontage. Then, with the Certain-Teed tract's annexation, the zoning boundaries created an odd blend of an existing industrial use with the partially developed residential subdivision. The changes in land use from 1985 to 2009 saw the loss of the residential use along Kell Blvd. and the encroaching residential subdivision on the decades-old industrial site. This rezone proposes to create a distinct artificial dividing boundary to separate the conflicting uses.
2. **Relationship to the Comprehensive Plan:** The Land Use Plan designation of the subject properties is a mix of Park, Commercial, Light Industrial, and Industrial. The proposed rezone would require amending the Land Use Plan designation of a portion of the Parks designation to Industrial. Staff believes the area is deserving of the long-term designation of Industrial due to the existing industrial use and the potential for further industrial expansions. The amendment would align the Land Use Plan with a similar designation as the adjacent uses.
3. **The nature and degree of impact upon neighboring lands:** When looking at the proposed transition, the uses would create less of an impact on surrounding

properties. The current designations leave the door open for developments with higher impacts to directly abut an established residential neighborhood. The greater risk of harmful effect would come from failing to act and amend an improper designation

### **Staff and Planning & Zoning Commission Recommendations**

The Planning & Zoning Commission convened on July 14, 2021 to consider the rezoning case with staff's favorable recommendation for approval to allow for the expansion of commercial uses. The commission unanimously recommended the zoning change from Single Family 2 (SF-2) to Light Industrial (LI) and Heavy Industrial (HI) (Exhibit F – Planning & Zoning Commission Minutes Excerpt).

If council approves the rezone to Light Industrial (LI) and Heavy Industrial (HI), the applicant is subject to all other zoning and building code regulations for commercial-related project; particularly adhering to any zoning requirements that may help lessen potential impacts to the adjacent properties. Rezoning the tract to Light Industrial (LI) and Heavy Industrial (HI) would be in harmony with the area. The property would expand uses for the area leading to potential increase in economic opportunities.

Staff recommends approval of the proposed rezoning request of +/- 25.91 acres of land located at 4314 Barnett Road to Light Industrial (LI) and Heavy Industrial (HI), and amending the Land Use Plan designation of Parks to Industrial.

☒ **Assistant City Manager**

☒ **Department Director**

---

**ASSOCIATED INFORMATION:** Exhibit A – Aerial Map; Exhibit B – Photos of Subject Property & Area; Exhibit C – Notification Response Map; Exhibit D – Zoning & Land Use Map; Exhibit E – Allowed Uses in Light Industrial and Heavy Industrial; Exhibit F – Planning & Zoning Commission – July 2021 Minutes Excerpt; Ordinance; Attachments 1 and 2.

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

---



## EXHIBIT A – Aerial Map – 4314 Barnett Road



### R 21-05 4314 Barnett Road Aerial Map

CITY OF WICHITA FALLS, PLANNING DIVISION  
MAP PRODUCED BY: Cedric Hu  
DATE PRODUCED: 14 June 2021

Disclaimer:  
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#### Legend

- Subject Property
- Parcels

## EXHIBIT B - Rezoning Request – 4314 Barnett Rd.

Photo 1 – View of Subject Property from Kell Blvd.



Photo 2 – View north from the subject property along Kell Blvd





## EXHIBIT B Cont. - Rezoning Request – 4314 Barnett Rd.

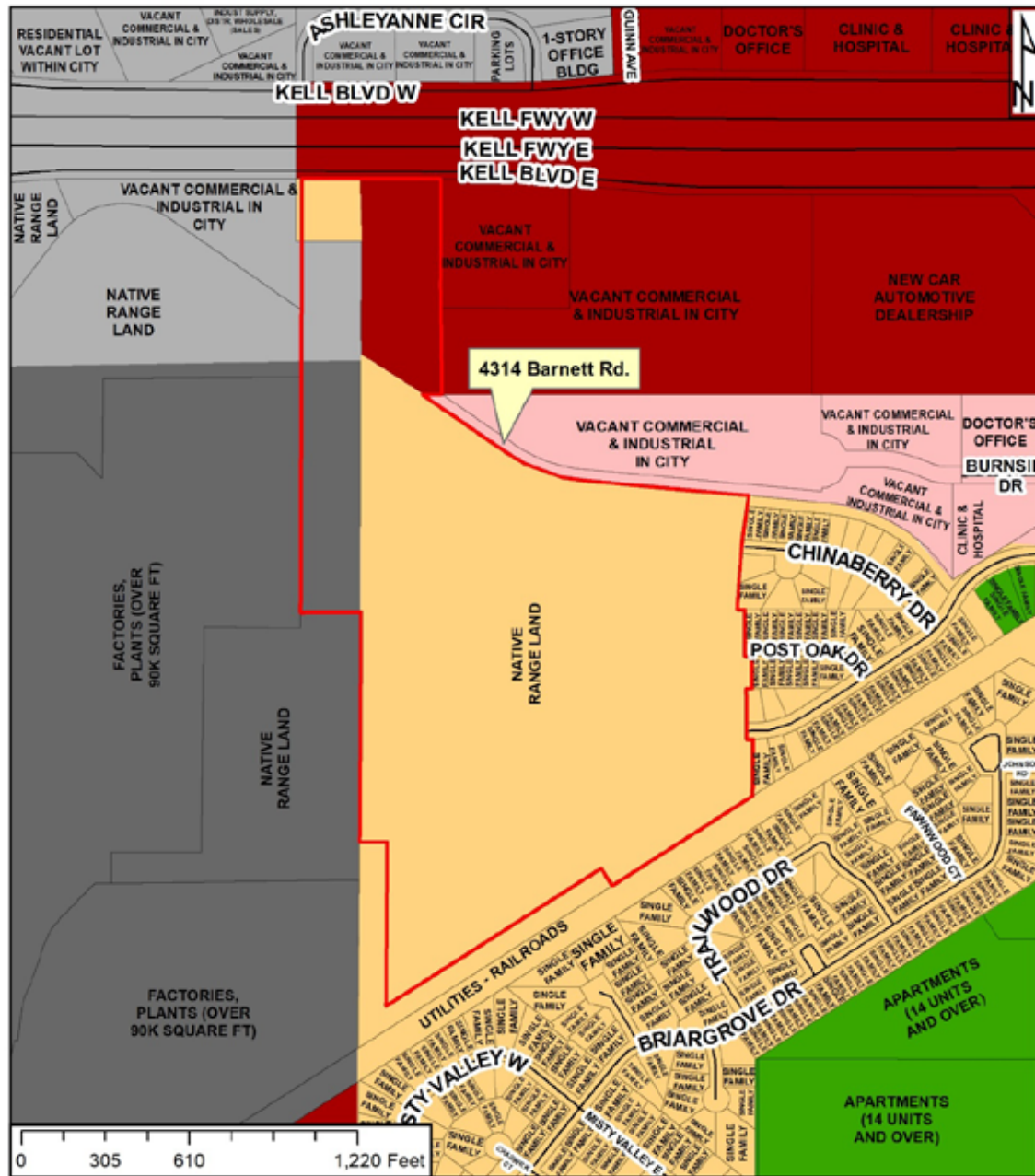
Photo 3 – West view from Subject Property along Kell Blvd.



Photo 4– South view from the property along Kemp Blvd.



## Exhibit C – Notification Map



### R 21-05 4314 Barnett Road Zoning and Land Use Map

CITY OF WICHITA FALLS, PLANNING DIVISION  
MAP PRODUCED BY: Cedric Hu  
DATE PRODUCED: 14 June 2021

Disclaimer  
The City of Wichita Falls has attempted to verify the accuracy of the information contained in the following map at the time of publication. The City of Wichita Falls assumes no liability for any errors, omissions, or inaccuracies in the information provided regardless of how caused. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



**Exhibit E**  
**Light Industrial (LI) Zoning District**

**The following uses are permitted subject to submittal of a site plan and review by the Planning Division.**

**Residential uses:**

Existing Residential units may be rebuilt or replaced if destroyed, however, the number of dwelling units on a parcel shall not be increased. New dwelling units shall not be permitted unless replacing an existing unit of the same square footage.

**Civic uses:**

Public safety services  
Religious assembly  
Utility service

**Commercial uses:**

Adult entertainment and sexually oriented commercial establishments, subject to the provisions of [section 5500](#).

Alcoholic beverage sales, subject to the provisions of [section 5400](#).

Automotive repairs

Automotive sales and service

Automotive service station

Boat sales and service

Bus station

Business and trade schools

Car wash

Clinic

Club

Coin-operated amusement machines establishment, as regulated by [section 5905](#).

Contractor's yard

Convenience store

Donation box

Exterminating services, without chemical storage

Funeral home

Hospital

Hotel

Indoor sports and recreation

Kennel

Light Manufacturing

Medical Office

Motel

Movie Theater

Nursery

Offices

Outdoor entertainment and recreation

Outdoor storage

## **Exhibit E Continued**

Parking facilities  
Repair Services  
Restaurants  
Retail trade  
Self-storage facilities/mini-warehouse  
Services  
Shopping center  
Veterinary services

### **Light Industrial uses:**

Agriculture equipment sales and services.  
Fabrication and assembly.  
Freight hauling.  
Heavy machinery sales and service.  
Lumberyards.  
Manufactured housing, individual accessory use.  
Manufactured housing sales.  
Oil drilling, subject to the provisions of appendix A, Subdivision and Development Regulations, section 6.4, Oil and Gas Well, as amended.  
Trucking facility.  
Warehousing facility.

### **The following uses are permitted following approval by the Planning and Zoning Commission for a Conditional Use Permit:**

Airport  
Communications towers and antennas as regulated by section 5910  
Community residential center  
Expansion of an existing residence  
Exterminating services, with on-site chemical storage  
Fuel and chemical storage  
Landfill  
Mining and excavation  
Motor vehicle salvage yard, subject to chapter 46, Environment, article V, Outdoor Storage, Wichita Falls Code of Ordinances, as amended  
Outdoor food court  
Shooting range (indoor)  
Shooting range (outdoor)  
Slaughterhouse and meat packaging  
Stockyards  
Halfway house

**Exhibit E**  
**Heavy Industrial (HI) Zoning District**

**The following uses are permitted subject to submittal of a site plan and review by the Planning Division.**

**Civic uses:**

Public safety services  
Religious assembly  
Utility service  
Community Residential Centers

**Commercial uses:**

Alcoholic beverage sales, subject to the provisions of [section 5400](#).  
Coin-operated amusement machines establishment, as regulated by [section 5905](#).  
Contractor's yard  
Convenience store  
Donation box  
Exterminating services, without chemical storage  
Offices  
Outdoor storage  
Restaurants  
Retail trade  
Services  
Shooting range (indoor)  
Shopping center

**Heavy commercial uses:**

Agriculture equipment sales and services.  
Airports.  
Fabrication and assembly.  
Freight hauling.  
Fuel and chemical storage.  
Heavy machinery sales and service.  
Lumberyards.  
Manufactured housing, individual accessory use.  
Mining and excavation.  
Manufactured housing, Individual accessory use.  
Manufactured housing sales.  
Motor vehicle salvage yard, subject to [chapter 46](#), Environment, article V, Outdoor Storage, Wichita Falls Code of Ordinances, as amended.  
Oil drilling, subject to the provisions of appendix A, Subdivision and Development Regulations, section 6.4, Oil and Gas Well, as amended.  
Stockyards  
Trucking facility.  
Warehousing facility.

**Exhibit E Continued  
Heavy Industrial (HI) Zoning District**

**Industrial uses:**

Basic industry and manufacturing.  
Industrial Park.  
Power Generation.  
Refineries.

**The following uses are permitted following approval by the Planning and Zoning Commission for a Conditional Use Permit:**

Communications towers and antennas as regulated by section 5910  
Landfill  
Shooting range (outdoor)  
Slaughterhouse and meat packaging

## Exhibit F

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### MINUTES – EXCERPT PLANNING & ZONING COMMISSION

July 14, 2021

**PRESENT:**

Jack Browne  
David Cook  
Blake Haney  
Steve Lane  
Noros Martin  
Mark McBurnett  
Cayce Wendeborn  
Jeremy Woodward  
Councilor Whiteley

u Member  
u Chairman  
u Member  
u Member  
u Member  
u SAFB Liaison  
u Member  
u Vice-Chair  
u Council Liaison

James McKechnie, Senior Asst. City Attorney  
Fabian Medellin, Planner III  
Christal Ashcraft, Development Services Admin. Asst.  
Pat Hoffman, Property Management Administrator  
Cedric Hu, Planning Technician

u City Staff  
u  
u  
u  
u

**ABSENT:**

Michael Grassi  
Anthony Inman  
Dan Leslie  
Wayne Pharries

u Member  
u Member  
u Alternate #1  
u Alternate #2

---

Case 21-05 4314 Barnett Road

Public hearing and consideration of a request to rezone +/- 25.91 acres of land located at 4314 Barnett Road (+/- 25.91 AC out of Block 11 of the Kems Subdivision of the William Myers Survey Abstract 193 & Blocks 18 & 19, League 1, of the Denton County School Lands, Abstract 58), from Single Family-2 Residential (SF-2) to Light Industrial (LI) and Heavy Industrial (HI) zoning districts and amend the Land Use Plan from Parks to Industrial to provide consistent zoning designation within a split zoned tract and align the districts with the adjacent tracts.

- a) Public Hearing
- b) Take Action

## **Exhibit F Continued**

Chairman Cook opened the public hearing at 2:28 p.m. and asked staff to present the case. Mr. Medellin advised this rezone proposal was seeking to correct zoning designations from annexations from 1975 and 1997. The owner/applicant, Mr. Tanner Wachsman met with staff to discuss an approximately 65 acre tract of land that has 4 different zoning classifications. These zoning classifications include; Single Family-2 (SF-2), General Commercial (GC), Light Industrial (LI) and Heavy Industrial (HI) zoning districts. Mr. Wachsman would like to align these zoning districts with their proposed future developments and help mitigate some conflicts having those uses in such close proximity to each other.

The subject property is currently undeveloped and located southwest of the Kell Boulevard and Barnett Road intersection. To the south and southeast are residential uses and to the west is Eagle Rail Car. To the north is Kell Boulevard and to the northeast is the Wichita Falls Ford House.

Mr. Medellin pointed out to the Commission a large electrical easement that bi-sects the tract of land. The subject property was given zoning classifications at two different time periods. The south portion was part of an annexation in 1975, however they were given a zoning designation in 1985 along of Single Family-2 (SF-2). The western portion was part of the Certain-Teed annexation in 1997 and given another classification. Mr. Wachsman is proposing to rectify some of the conflicts that can come about from having these adjacent uses next to each other.

Along Kell Boulevard is an "island" of Single Family-2 (SF-2), at one point in time there was a residence there and given that designation. After discussion with the applicant staff feels the large electrical easement would serve as a good divider between industrial and residential uses. Staff is proposing to rezone portions of the Single Family-2 (SF-2) to Heavy Industrial (HI) to allow for potential expansion of the industrial uses, existing and new from Kell Boulevard, as well as amend that residential "island" to Light Industrial (LI). The portion west of the Tesco easement running along the center line of that easement will be rezoned to Heavy Industrial (HI), essentially creating a man-made barrier separating those uses. The proposal does also include a land use plan amendment designation change from parks to industrial for that portion being rezoned to industrial.

Staff notified 17 property owners within 200 ft. and received a total of 2 responses back, both in favor of this rezone. Staff recommends approval of the proposed rezoning request of +/- 25.91 acres of land located at 4314 Barnett Road to Light Industrial (LI) and Heavy Industrial (HI), and amending the Land Use Plan designation of Parks to Industrial.

Chairman Cook asked if the applicant was present and wished to comment, then asked if there were any other public comments. With no response, Mr. Cook closed the public discussion at 2:34 pm and opened discussion to the Commission. With no discussion from the Commission, Mr. Cook called for a motion. Ms. Casey Wendeborn made a motion to recommend rezone to City Council, Mr. Jack Browne seconded. Motion passed unanimously with a 7-0 vote.



Ordinance No. \_\_\_\_\_

**Ordinance rezoning approximately +/- 25.91 acres of land located at 4314 Barnett Road (+/- 25.91 AC out of Block 11 of the Kemps Subdivision of the William Myers Survey Abstract 193 & Blocks 18 & 19, League 1, of the Denton County School Lands, Abstract 58), from Single Family-2 Residential (SF-2) to Light Industrial (LI) and Heavy Industrial (HI); and amending the Land Use Plan from Parks to Industrial**

WHEREAS, the Planning and Zoning Commission considered the proposed zoning change at its July 14, 2021 meeting, and voted to recommend approval of this request; and

WHEREAS, the City Council has reviewed this request and has determined the herein described Zoning amendment is in the public interest.

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

1. 25.91 AC out of Block 11 of the Kemps Subdivision of the William Myers Survey Abstract 193 & Blocks 18 & 19, League 1, of the Denton County School Lands, Abstract 58 (4314 Barnett Road – +/- 25.91 acres) as depicted on the attached map incorporated in this ordinance as **Attachment “A”**, is hereby rezoned from Single Family 2 (SF-2) to Light Industrial (LI) and Heavy Industrial (HI).
2. The area on the Land Use Map, as depicted on the attached map incorporated in this ordinance as **Attachment “B”**, is hereby amended to change the area from Parks to Industrial.

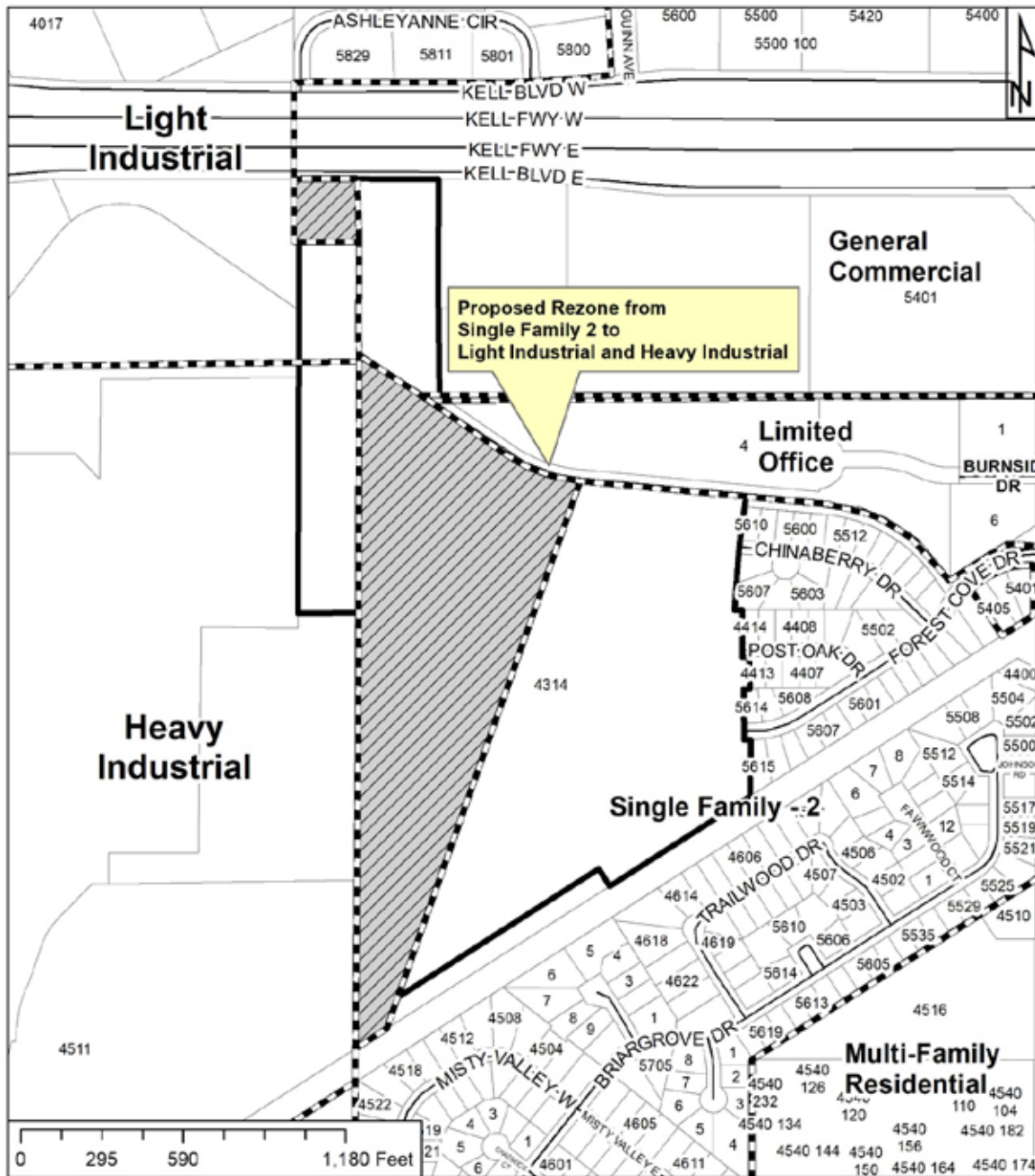
PASSED AND APPROVED this the \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

## Attachment "A"

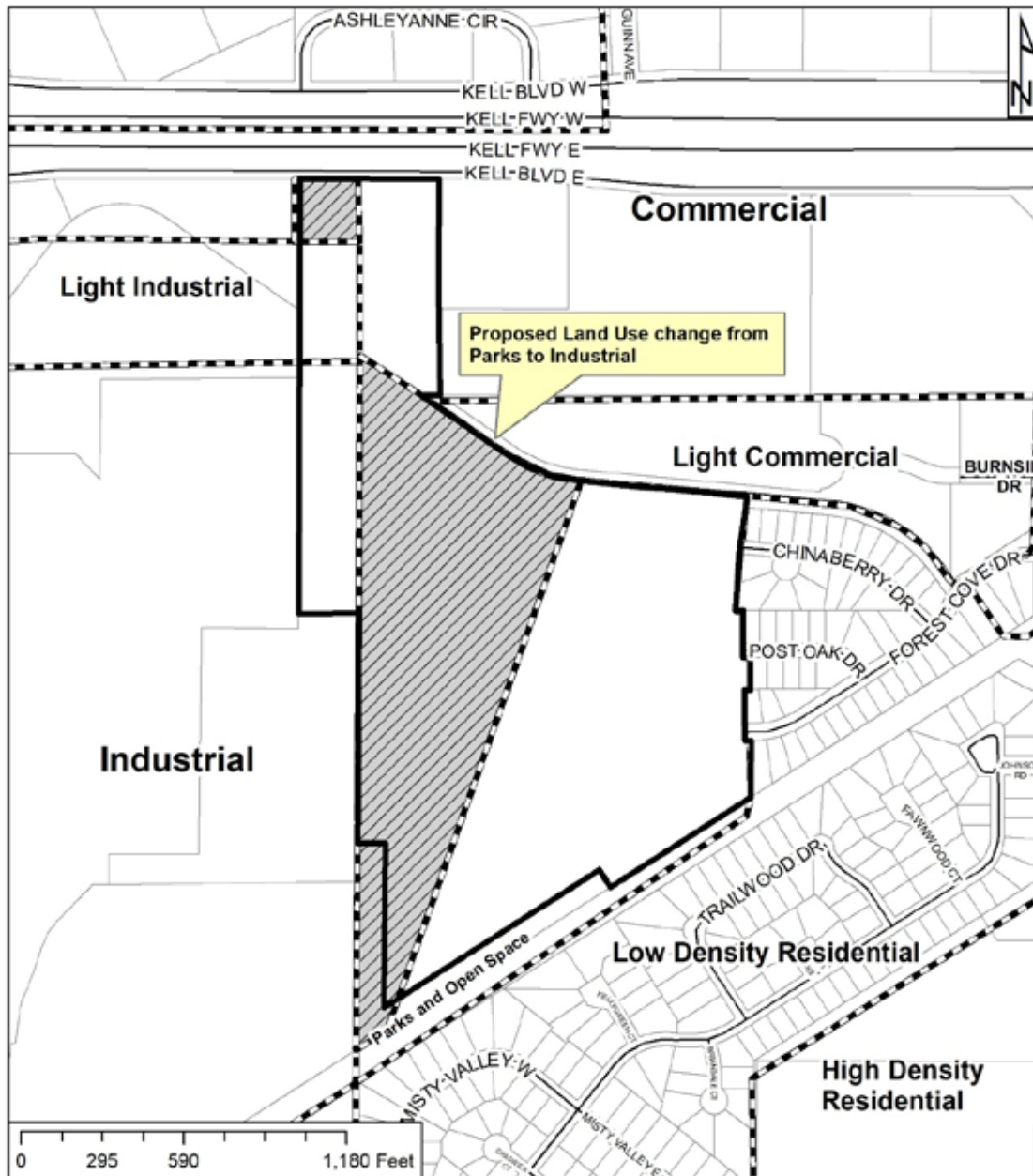


### R 21-05 4314 Barnett Road Rezone Map

CITY OF WICHITA FALLS, PLANNING DIVISION  
MAP PRODUCED BY: Cedric Hu  
DATE PRODUCED: 8 July 2021

Disclaimer:  
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## Attachment “B”



### R 21-05 4314 Barnett Road Land Use Map

CITY OF WICHITA FALLS, PLANNING DIVISION  
MAP PRODUCED BY: Cedric Hu  
DATE PRODUCED: 6 July 2021

Disclaimer:  
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#### Legend

-  Subject Property
-  Proposed Land Use
-  Land Use Plan Boundary
-  Parcels

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**CITY COUNCIL AGENDA**  
**August 3, 2021**

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**ITEM/SUBJECT:** Ordinance amending Ordinance No. 50-2019 declaring certain structures as dangerous by allowing the property owner additional time to rehabilitate 2204 Harvard.

**INITIATING DEPT:** Development Services/Code Enforcement

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**STRATEGIC GOAL:** Accelerate Economic Growth

**STRATEGIC OBJECTIVE:** Revitalize Depressed and Declining Neighborhoods

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**COMMENTARY:**

- September 13, 2019 – Notice of public hearing/issue via certified mail to property owners.
- September 12 & 13, 2019 – Notice of public hearing/issue published in TRN.
- October 15, 2019 – City Council ordered the structure located at 2204 Harvard Avenue also known as Lot 3, Block 12, Sibley Taylor owned at that time by Patrick A. Schlabs to be demolished.
- November 14, 2019 – Deadline for property owner to demolish.
- May 2021 – Ms. Alma Aljaberi contacted City staff after having purchased the property on April 28, 2021.
- **August 3, 2021** – City Council to consider allowing property owner time to rehabilitate structure.

Should Council decide to allow time for the rehabilitation of the structure, it is recommended that a Restoration Permit be authorized for 2204 Harvard and for the property to remain on the demolition list until all repairs are completed. Photos of the property are under “Exhibit A”.

Ms. Aljaberi has provided staff documentation of her funding commitment for the project restoration, a contractor commitment for repairing the project, along with pictures of other projects she has successfully completed in other cities.

Staff is recommending Ms. Aljaberi to be granted an extension of 30 days to obtain a restoration permit and an additional 90 days thereafter (total of 120 days from the date of approval) to complete the rehabilitation of the structure.

☒ Neighborhood Services Manager

☒ Development Services Director

☒ Assistant City Manager

---

**ASSOCIATED INFORMATION:** Exhibit A, Ordinance

☒ Budget Office Review:

☒ City Attorney Review:

☒ City Manager Approval:

---

Ordinance No. \_\_\_\_\_

**Ordinance amending Ordinance No. 50-2019 declaring certain structures as dangerous by allowing the property owner additional time to rehabilitate 2204 Harvard Avenue**

WHEREAS, the property located at Lot 3 Block 12 Sibley Taylor (aka 2204 Harvard Avenue), owned by Ahmad and Alma Aljaberi, was included in a list of properties declared hazardous at the City Council Meeting on October 15th, 2019; and,

WHEREAS, Ms. Aljaberi has requested additional time to complete the restoration of the structure; and,

WHEREAS, the City Council desires to grant additional time to Ms. Aljaberi to rehabilitate the structure in the form of a restoration permit.

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

1. Additional time in the amount of **30** days is granted to the property owner of 2204 Harvard Avenue to obtain a restoration permit. Thereafter, complete restoration shall be accomplished within **120** days from the date of passage of this ordinance. Failure to comply with either of these requirements within the stated time frames will result in the demolition of the structure, without further notification. Upon rehabilitation of the structure, the demolition order shall become void.

2. Due to the fact that the subject matter of this ordinance affects the public health, safety, and welfare of the citizens of the City of Wichita Falls, this ordinance is declared to be an emergency measure, and shall become effective immediately upon its passage.

PASSED AND APPROVED this the 3rd day of August, 2021

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk



**EXHIBIT A**









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## CITY COUNCIL AGENDA August 3, 2021

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**ITEM/SUBJECT:** Consider and approve a resolution of the Wichita Falls 4B Sales Tax Corporation 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.

**INITIATING DEPT:** City Manager's Office

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**STRATEGIC GOAL:** (1) Accelerate Economic Growth, (2) Redevelop Downtown, (3) Provide Quality Infrastructure

**STRATEGIC OBJECTIVE:** (1) Attract Target Industries and Jobs, (2) Develop and Open a Convention Center Hotel, (3) Complete Signature Public Improvements

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**COMMENTARY:**

Project milestones to date:

- October 30, 2019 – Type B (4B) Board votes to authorize Chair to sign 3-way master development agreement (MDA) between O'Reilly Hospitality, 4B, and City outlining the framework of a proposed 200-room Delta by Marriot hotel and associated conference center adjacent to the existing MPEC facilities.
- November 19, 2019 – City Council authorizes City Manager to sign MDA.
- December 10, 2019 – Type B Board considers and approves a \$456,477 budget amendment facilitating the preconstruction costs of the proposed City/4B-owned conference center portion of the project.
- December 17, 2019 – City Council approves Type B budget amendment for conference center preconstruction costs.
- 2020 – Project on hold for most of the year due to covid-19 pandemic.
- Early 2021 – O'Reilly and City commence predevelopment activities including design and engineering of the privately funded hotel and the associated 4B-funded conference center.
- April 29, 2021 – Type B Corporation Board approves motion setting two (2) public hearings on June 3, 2021, related to the hotel and convention center project.
- May 12, 2021 – Planning and Zoning Commission (P&Z) approves subdivision plat dividing the project sites into separate lots.
- June 3, 2021 – Type B Corporation Board conducts two (2) public hearings related to the hotel and convention center project.
- July 19, 2021 – Type B Corporation Board approves several items advancing project including parameters resolution which authorized the Board Chair to execute all documents related to the funding of the conference center portion of the project.
- July 20, 2021 – City Council approves several items related to and advancing the project including a Chapter 380 Economic Development Agreement with OH-

Wichita Falls and a related land sale agreement.

- **August 3, 2021** – City Council to consider several items advancing project including (1) parameters resolution (this item), and (2) performance agreement (next item).

In review, the proposed MPEC conference center and hotel project includes (1) a 200 room full-service Delta by Marriot hotel to be built, owned, and operated by O'Reilly Hospitality Management (OHP) at a cost of approximately \$48M paid for by OHP, and (2) an approximately 35,000 square foot attached conference/banquet facility that would complement and extend the MPEC's capabilities to be constructed by OHP and owned by the City at a total cost not to exceed \$19M. Today's consideration continues a series of items that, if approved, should lead to the commencement of construction this fall.

At the Board's July 19, 2021 meeting, the City's Type B (4B) Sales Tax Corporation Board approved a parameters resolution authorizing the Chair to execute funding for the conference/banquet center portion in full, using existing Type B sales tax revenue to support such. The City Council is required to consider/approve same which is the crux of this item.

This resolution has been prepared for consideration via a coordinated effort between the Board's legal counsel, the City's bond counsel and bond consultants, and the City's Chief Financial Officer. Adoption of the resolution would authorize the Type B Board to issue revenue bonds to fund the Conference Center portion of the Hotel and Conference Center project, commit to the payment of said bonds annually for either 20 or 30 years, and authorize the Board Chair to sign all related documents.

Staff recommends approval of the resolution.

#### **Motion Approval Language**

MOVE APPROVAL OF THE RESOLUTION APPROVING A RESOLUTION OF THE WICHITA FALLS 4B SALES TAX CORPORATION 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

☒ **Assistant City Manager**

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**ASSOCIATED INFORMATION:** 4B Sales Tax Corporation Resolution; Resolution of the City Council approving same

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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## RESOLUTION

RESOLUTION APPROVING A RESOLUTION OF THE WICHITA FALLS 4B SALES TAX CORPORATION 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

WHEREAS, Wichita Falls Economic Development Corporation (the "Corporation") is a non-profit industrial development corporation created, existing and governed by the Development Corporation Act, Chapters 501, 502 and 505, Texas Local Government Code, formerly Section 4A of Article 5190.6, Tex. Rev. Civ. Stat. Ann., as amended (the "Act").

WHEREAS, there has been presented to this City Council a resolution (the "Bond Resolution") adopted by the Board of Directors of the Corporation authorizing the issuance and sale of the Corporation's sales tax revenue bonds for the purposes of acquiring, installing, constructing and equipping a new convention center facility in the City, including specifically acquiring, installing, constructing and equipping public meeting, convention and exhibit space in the convention center facility and related parking and infrastructure and other purposes permitted by law and paying costs of issuance in connection with the Bonds (the "Project");

WHEREAS, the City and the Corporation intend to enter into a Sales Tax Remittance Agreement pursuant to which sales taxes collected by the City for the benefit of the Corporation pursuant to the Act shall be transferred and deposited into a fund for the use by the Corporation in the furtherance of its authorized powers and purposes;

WHEREAS, this City Council finds and determines that it is necessary and appropriate to approve the Bond Resolution for the purposes hereinabove provided; Now, Therefore

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS:

Section 1. The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section. The Bond Resolution, attached hereto as Exhibit A, is hereby approved and the issuance by the Corporation of sales tax revenue bonds in the principal amount not to exceed \$19,000,000 (the "Bonds"), for the purpose financing the Project, funding the reserve fund requirement for the Bonds and to pay costs of issuance of the Bonds, is hereby approved; and said Bond Resolution, the Bonds and the expenditure of funds of the Corporation in connection therewith are hereby approved.

Section 2. The Sales Tax Remittance Agreement Attached hereto as Exhibit B is approved.

Section 3. The Mayor, City Clerk and any other officer or employee of the City, and each of them, shall be and they are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Resolution and the Sales Tax Remittance Agreement.

Section 4. This Resolution shall be effective immediately upon adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS,  
TEXAS, this \_\_\_\_\_.

\_\_\_\_\_  
Mayor  
City of Wichita Falls, Texas

ATTEST

\_\_\_\_\_  
City Clerk  
City of Wichita Falls, Texas

[CITY SEAL]

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney  
City of Wichita Falls, Texas

Exhibit A  
Corporation Bond Resolution

RESOLUTION AUTHORIZING THE ISSUANCE OF WICHITA FALLS 4B SALES TAX CORPORATION SALES TAX REVENUE BONDS; ESTABLISHING PROCEDURES AND DELEGATING AUTHORITY FOR THE SALE AND DELIVERY OF THE BONDS; PROVIDING FOR THE SECURITY FOR AND PAYMENT OF SAID BONDS; PROVIDING AN EFFECTIVE DATE; AND ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT

THE STATE OF TEXAS §

WICHITA FALLS 4B SALES TAX CORPORATION §

WHEREAS, Wichita Falls 4B Sales Tax Corporation (the "Corporation") is a non-profit industrial development corporation created, existing and governed by V.T.C.A, Local Government Code, Title 12, Subtitle C1, as amended (the "Act"), specifically Chapters 501, 502 and 505 thereof (the "Act").

WHEREAS, pursuant to the authority granted in the Act, the City of Wichita Falls, Texas (the "City") has levied a one-quarter of one percent sales and use tax for the benefit of the Corporation (the "Sales Tax"), to be used exclusively for the purposes set forth in the Act;

WHEREAS, the Corporation is authorized by the Act to issue its revenue bonds, to be secured by and payable from the Sales Tax, in the manner and for the purposes hereinafter provided;

WHEREAS, the Corporation may undertake projects authorized by the Act and the purposes approved by voters at the January 18, 1997 election on the question of imposing the Sales Tax;

WHEREAS, the Corporation adopted a Resolution on April 29, 2021 authorizing the publication of notice of its intent to issue bonds secured by the Sales Tax and other available funds for the purpose of acquiring, installing, constructing and equipping a new convention center facility in the City, including specifically acquiring, installing, constructing and equipping public meeting, convention and exhibit space in the convention center facility and related parking and infrastructure and other purposes permitted by law (the "Project") and calling a public hearing to be conducted on June 3, 2021;

WHEREAS, the Corporation conducted a public hearing on the Project on June 3, 2021;

WHEREAS, a portion of the proceeds of the bonds hereinafter authorized will be used for the Project, and it is hereby found, determined and declared that the Project is necessary and suitable and that the Project will promote visitors and tourism to the City and the use of such new facilities for conventions, meetings, exhibits, public gatherings and other events for visitors, tourists and the general public, and that such improvements will promote and encourage employment and public welfare and enable and promote or develop new or expanded business enterprises;

WHEREAS, this Board of Directors hereby finds and determines that it is a public purpose and in the best interests of the Corporation to issue the herein proposed bonds with such information and terms to be included in a pricing certificate (the "Pricing Certificate") to be executed by the Pricing Officer (hereinafter designated);

WHEREAS, the bonds hereafter authorized are being issued and delivered pursuant to the Act; and

WHEREAS, It is officially found, determined, and declared that the meeting at which this Resolution has been adopted was open to the public and public notice of the time, place and subject

matter of the public business to be considered and acted upon at said meeting, including this Resolution, was given, all as required by the applicable provisions of Tex. Gov't Code Ann. ch. 551; Now, Therefore

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE WICHITA FALLS 4B SALES TAX CORPORATION:

Section 1. DEFINITIONS.

(a) Unless otherwise expressly provided or unless the context clearly requires otherwise, in this Resolution the following terms shall have the meanings specified below:

“Act” shall mean the Development Corporation Act, V.T.C.A, Local Government Code, Title 12, Subtitle C1, as amended, specifically Chapters 501, 502 and 505 thereof.

“Additional Parity Obligations” means bonds, notes or other obligations the Corporation reserves the right to issue on a parity with the Parity Revenue Obligations in accordance with the terms and conditions prescribed in Section 16 hereof.

“Board” means the Board of Directors of the Corporation.

“Bonds” means the Corporation's Bonds entitled “Wichita Falls 4B Sales Tax Corporation Sales Tax Revenue Bonds, Taxable Series 2021” authorized to be issued by Section 2.

“Closing Date” means the date of the initial delivery of and payment for the Bonds.

“Comptroller” means the Comptroller of Public Accounts of the State of Texas and any successor officer or official that may be charged by law with the duty of collecting Gross Sales Tax Revenues for the account of, and remitting the same to, the City for the account of the Corporation.

8(a). “Debt Service Fund” means the interest and sinking fund established and confirmed by Section

“Designated Financial Officer” means the President or Treasurer of the Corporation.

8(a). “Economic Development Fund” means the special fund established and confirmed by Section

“Event of Default” means any Event of Default as defined in Section 30(a).

“Fiscal Year” means twelve months' period beginning October 1 of each year and ending September 30 of the succeeding year.

8(a). “Gross Sales Tax Revenue Fund” means the special fund established and confirmed by Section

“Gross Sales Tax Revenues” means all of the revenues due or owing to, or collected or received by or on behalf of the Corporation, whether by the City or otherwise, pursuant to the Sales Tax Remittance Agreement or this Resolution, from or by reason of the levy of the Sales Tax, less any amounts due or owing to the Comptroller as charges for collection or retentions by the Comptroller for refunds and to redeem dishonored checks and drafts, to the extent such charges and retention are authorized or required by law.



“Interest Payment Date” means the date or dates upon which interest on the Bonds is scheduled to be paid until the maturity of the Bond, such dates being set forth in the Pricing Certificate (hereinafter defined)

“Parity Revenue Obligations” means the Bonds and Additional Parity Obligations.

“Paying Agent/Registrar” means the entity designated in the Pricing Certificate, any successor thereto or an entity which is appointed as and assumes the duties of paying agent/registrar as provided in this Resolution.

“Pledged Revenues” means (a) the Gross Sales Tax Revenues and (b) such other money, income, revenues or other property which the Corporation may pledge expressly and specifically to the payment of Parity Revenue Obligations.

“Pricing Certificate” means the Pricing Certificate described in Section 3(a).

“Project Development Fund” means the fund so designated and established by Section 8(a).

“Purchaser” means the person, firm or entity initially purchasing the Bonds from the Corporation and which is designated in Section 26.

“Record Date” means the fifteenth day of the month next preceding an Interest Payment Date or such other date as may be set forth in the Pricing Certificate.

“Registered Owner” means the person who is the Registered Owner of a Bond, as shown in the Register.

“Registration Books” means the bond registration books specified in Section 4(b).

“Reserve Fund” means the reserve fund established and confirmed by Section 8(a).

“Reserve Requirement” has the meaning set forth in Section 12(a).

“Resolution” means this Resolution.

“Sales Tax” means the local sales and use tax authorized under the Act and heretofore authorized and levied by the City within its existing boundaries, and hereafter required to be levied and collected within any expanded areas included within the City pursuant to the Act, together with any increases in the rate thereof if provided and authorized by applicable law.

“Sales Tax Remittance Agreement” means that certain agreement between the Corporation and the City, bearing that name.

(b) This Resolution and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of this Resolution.

(c) Section references shall mean, unless otherwise designated, Sections of this Resolution.

## Section 2. RECITALS, AMOUNT AND PURPOSE OF THE BONDS.

(a) The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section.

(b) The bonds of Wichita Falls 4B Sales Tax Corporation (the "Corporation") are hereby authorized to be issued and delivered, in one or more series, in the aggregate principal amount not to exceed the amount set forth below for the public purposes of (i) acquiring and constructing infrastructure improvements in the Wichita Falls Business Park including street, drainage and water and sewer improvements for the promotion of new and expanded business enterprises in the City (the "Project"), (ii) funding the reserve fund requirement for the Bonds (if so provided in the Pricing Certificate) and (iii) providing funds to pay the costs of issuance of the Bonds.

(c) Each Bond issued pursuant to this Resolution shall be designated: "WICHITA FALLS 4B SALES TAX CORPORATION SALES TAX REVENUE BOND, TAXABLE SERIES 2021," and initially there shall be issued, sold, and delivered hereunder fully registered Bonds, without interest coupons, with Bonds issued in replacement thereof being in the denominations and principal amounts hereinafter stated and numbered consecutively from R-1 upward, payable to the respective Registered Owners thereof (with the initial Bond being made payable to the initial purchaser as described in Section 26 hereof), or to the registered assignee or assignees of said Bonds or any portion or portions thereof (in each case, the "Registered Owner"). The Bonds shall be in the respective denominations and principal amounts, shall be numbered, shall mature and be payable on the date or dates in each of the years and in the principal amounts, and shall bear interest to their respective dates of maturity or redemption prior to maturity at the rates per annum, as set forth in the Pricing Certificate.

### Section 3. DELEGATION TO PRICING OFFICER.

(a) As authorized by the Act, the President, Vice President and/or the Treasurer of the Corporation (the "Pricing Officer") are each hereby authorized to act on behalf of the Corporation in selling and delivering the Bonds, carrying out the other procedures specified in this Resolution, including, determining the date of the Bonds, any additional or different designation or title by which the Bonds shall be known, whether the Bonds shall be sold and delivered in one or more series and the date and sale and delivery of each such series, the amount of Bonds to be issued, the price at which the Bonds will be sold, the years in which the Bonds will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the interest payment and record dates, the price and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the Corporation, as well as any mandatory sinking fund redemption provisions, and approving modifications to this Resolution and executing such instruments, documents and agreements as may be necessary with respect thereto, and all other matters relating to the issuance, sale, and delivery of the Bonds and obtaining municipal bond insurance or a surety reserve for all or any portion of the Bonds (including the execution of any commitment agreements, membership agreements in mutual insurance companies, and other similar agreements) and providing for the terms and provisions thereof applicable to the Bonds, all of which shall be specified in the pricing certificate (the "Pricing Certificate") to be executed by the Pricing Officer; provided that:

(i) the aggregate principal amount of the Bonds to be issued shall not exceed \$19,000,000;

(ii) the true interest cost of the Bonds shall not exceed 6.00% per annum;

(iii) the net effective interest rate on the Bonds shall not exceed the maximum rate set forth in Chapter 1204, Texas Government Code, as amended;

(iv) the final maturity of the Bonds shall not be later than September 1, 2051; and

(v) the delegation made hereby shall expire if not exercised by the Pricing Officer within six (6) months of the date of adoption hereof.

(b) The Pricing Officer shall determine whether the Bonds will be sold by private placement or negotiated or competitive sale. The term "Bonds" as used in this Resolution shall mean and include collectively the bond initially issued and delivered pursuant to this Resolution and all definitive or substitute bonds exchanged therefor, as well as all other substitute bonds and replacement bonds issued pursuant hereto, and the term "Bond" shall mean any of the Bonds, unless the context clearly indicates otherwise.

(c) In establishing the aggregate principal amount of the Bonds, the Pricing Officer shall establish an amount not exceeding the amount authorized in Subsection (a) hereof, which shall be sufficient in amount to provide for the purposes for which the Bonds are authorized and to pay costs of issuing the Bonds. The Bonds shall be sold with and subject to such terms as set forth in the Pricing Certificate. The Pricing Officer is authorized to make any other changes to this Resolution deemed necessary by the Pricing Officer, with such changes to be set forth in the Pricing Certificate.

#### Section 4. CHARACTERISTICS OF THE BONDS.

(a) Appointment of Paying Agent/Registrar. The selection and appointment of the paying agent/registrar for the Bonds (the "Paying Agent/Registrar") shall be as set forth in the Pricing Certificate. The Pricing Officer is authorized and directed to execute and deliver in the name on behalf of the Corporation a Paying Agent/Registrar Agreement with the Paying Agent/Registrar in substantially the form presented at this meeting.

(b) Registration, Transfer, Conversion and Exchange. The Corporation shall keep or cause to be kept at the corporate trust office of the Paying Agent/Registrar books or records for the registration of the transfer, conversion and exchange of the Bonds (the "Registration Books"), and the Corporation hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, conversions and exchanges under such reasonable regulations as the Corporation and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions and exchanges as herein provided within three days of presentation in due and proper form. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the registered owner of each Bond to which payments with respect to the Bonds shall be mailed, as herein provided; but it shall be the duty of each registered owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The Corporation shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Corporation shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange and delivery of a substitute Bond or Bonds. Registration of assignments, transfers, conversions and exchanges of Bonds shall be made in the manner provided and with the effect stated in the FORM OF BOND set forth in this Resolution. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond.

(c) Authentication. Except as provided in subsection (m) of this section, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign said Bond, and no such Bond shall be deemed to be issued or outstanding unless such Bond is so executed. The Paying Agent/Registrar promptly shall cancel all paid Bonds and Bonds surrendered for conversion and exchange. No additional ordinances, orders or resolutions need be passed or adopted by the governing body of the Corporation or any other body or person so as to accomplish the foregoing conversion and exchange of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution and delivery of the substitute Bonds in the manner prescribed herein. Pursuant to

Subchapter D, Chapter 1201, Texas Government Code, the duty of conversion and exchange of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Bond, the converted and exchanged Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which initially were issued and delivered pursuant to this Resolution, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

(d) Payment of Principal and Interest. The Corporation hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Bonds, all as provided in this Resolution. The Paying Agent/Registrar shall keep proper records of all payments made by the Corporation and the Paying Agent/Registrar with respect to the Bonds, and of all conversions and exchanges of Bonds, and all replacements of Bonds, as provided in this Resolution. However, in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Corporation. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first class postage prepaid, to the address of each registered owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(e) Payment to Registered Owner. Notwithstanding any other provision of this Resolution to the contrary, the Corporation and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Registration Books as the absolute owner of such Bond for the purpose of payment of principal and interest with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the order of the registered owners, as shown in the Registration Books as provided in this Resolution, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Corporation's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than a registered owner, as shown in the Registration Books, shall receive a Bond certificate evidencing the obligation of the Corporation to make payments of principal and interest pursuant to this Resolution.

(f) Paying Agent/Registrar. The Corporation covenants with the registered owners of the Bonds that at all times while the Bonds are outstanding the Corporation will provide a competent and legally qualified bank, trust company, financial institution or other agency to act as and perform the services of Paying Agent/Registrar for the Bonds under this Resolution, and that the Paying Agent/Registrar will be one entity. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Resolution, and a certified copy of this Resolution shall be delivered to each Paying Agent/Registrar.

(g) Substitute Paying Agent/Registrar. The Corporation reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than one hundred twenty (120) days written notice to the Paying Agent/Registrar, to be effective not later than sixty (60) days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the Corporation covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Resolution. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bonds, to the new Paying Agent/Registrar.

designated and appointed by the Corporation. Upon any change in the Paying Agent/Registrar, the Corporation promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each registered owner of the Bonds, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar.

(g) Book-Entry Only System. Upon initial issuance, the ownership of the Bonds may, if so designated by the Pricing Officer, be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), pursuant to the Book-Entry Only System hereinafter described and the provisions of Subsections (h), (i), (j) and (k) of this Section shall apply to the Bonds, and except as provided in subsections (i), (j) and (m) of this Section, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

(h) Blanket Letter of Representations. The execution and delivery of the Blanket Letter of Representations with respect to obligations of the Corporation is hereby approved, or, if applicable, ratified and confirmed; and the provisions thereof shall be fully applicable to the Bonds. Notwithstanding anything to the contrary contained herein, while the Bonds are subject to DTC's Book-Entry Only System and to the extent permitted by law, the Letter of Representations is hereby incorporated herein and its provisions shall prevail over any other provisions of this Resolution in the event of conflict.

(i) Bonds Registered in the Name of Cede & Co. With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the Corporation and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created ("DTC Participant") to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the Corporation and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than a registered owner of Bonds, as shown on the Registration Books, of any notice with respect to the Bonds, or (iii) the payment to any DTC Participant or any other person, other than a registered owner of Bonds, as shown in the Registration Books of any amount with respect to principal of or interest on the Bonds. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Resolution with respect to interest checks being mailed to the registered owner at the close of business on the Record date, the words "Cede & Co." in this Resolution shall refer to such new nominee of DTC.

(j) Successor Securities Depository; Transfers Outside Book-Entry Only System. In the event that the Corporation determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the Corporation to DTC or that it is in the best interest of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the Corporation shall (i) appoint a successor securities depository, qualified to act as such under Section 17A of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names registered owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Resolution.

(k) Payments to Cede & Co. Notwithstanding any other provision of this Resolution to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the representation letter of the Corporation to DTC.

(l) General Characteristics of the Bonds. The Bonds (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Bonds to be payable only to the Registered Owners thereof, (ii) may and shall be redeemed prior to their scheduled maturities, (iii) may be transferred and assigned, (iv) may be converted and exchanged for other Bonds, (v) shall have the characteristics, (vi) shall be signed, sealed, executed and authenticated, (vii) the principal of and interest on the Bonds shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the Corporation shall have certain duties and responsibilities with respect to the Bonds, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF BOND set forth in this Resolution. The Bonds initially issued and delivered pursuant to this Resolution is not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Bond issued in conversion of and exchange for any Bond or Bonds issued under this Resolution the Paying Agent/Registrar shall execute the Paying Agent/registrar's Authentication Bond, in the FORM OF BOND set forth in this Resolution.

(m) Cancellation of Initial Bond. On the closing date, one initial Bond representing the entire principal amount of the Bonds, payable in stated installments to the order of the initial purchaser of the Bonds or its designee, executed by manual or facsimile signature of the President and Secretary of the Board, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to such purchaser or its designee. Upon payment for the initial Bond, the Paying Agent/Registrar shall (i) if the Bonds are sold by private placement, insert the delivery date on the initial Bond and deliver the initial Bond to the Purchaser, with any Bonds transferred, exchanged or substituted therefor to be registered in the name of the Registered Owner thereof, or (ii) if the Bonds are sold by negotiated or competitive sale, the Paying Agent/Registrar shall cancel the initial Bond and insert the delivery date on Bond No. T-1, cancel the initial Bond and deliver to DTC on behalf of such purchaser one registered definitive Bond for each year of maturity of the Bonds, in the aggregate principal amount of all of the Bonds for such maturity, registered in the name of Cede & Co., as nominee of DTC. To the extent that the Paying Agent/Registrar is eligible to participate in DTC's FAST System, the Paying Agent/Registrar shall hold the definitive Bonds in safekeeping for DTC deliver to DTC on behalf of such purchaser one registered definitive Bond for each year of maturity of the Bonds, in the aggregate principal amount of all of the Bonds for such maturity.

Section 5. FORM OF BOND. The form of the Bonds, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Bond initially issued and delivered pursuant to this Resolution, shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Resolution and the Pricing Certificate.

(a) Form of Bond.

NO. R-\_\_

UNITED STATES OF AMERICA  
STATE OF TEXAS

PRINCIPAL  
AMOUNT  
\$ \_\_\_\_\_

WICHITA FALLS 4B SALES TAX CORPORATION  
SALES TAX REVENUE BOND  
TAXABLE SERIES 2021

Interest Rate	Dated/Delivery Date	Maturity Date	CUSIP No.
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REGISTERED OWNER:

PRINCIPAL AMOUNT:            DOLLARS

WICHITA FALLS 4B SALES TAX CORPORATION (the "Corporation"), being a nonstock, nonprofit industrial development corporation created, existing and governed by V.T.C.A, Local Government Code, Title 12, Subtitle C1, as amended (the "Act"), specifically Chapters 501, 502 and 505 thereof (the "Act"), and acting on behalf of the City of Wichita Falls, Texas (the "City"), for value received, promises to pay, from the sources described herein, to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above. The Corporation promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from \_\_\_\_\_ at the Interest Rate per annum specified above. Interest is payable on \_\_\_\_\_ and semiannually on each \_\_\_\_\_ and \_\_\_\_\_ thereafter to the Maturity Date specified above, or the date of redemption prior to maturity; except, if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full.

THE PRINCIPAL OF AND INTEREST ON this Bond are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Bond shall be paid to the registered owner hereof upon presentation and surrender of this Bond at maturity, or upon the date fixed for its redemption prior to maturity, at the principal corporate trust office of \_\_\_\_\_, Dallas, Texas, which is the "Paying Agent/Registrar" for this Bond. The payment of interest on this Bond shall be made by the Paying Agent/Registrar to the registered owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the Corporation required by the resolution authorizing the issuance of this Bond (the "Bond Resolution") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the registered owner hereof, at its address as it appeared on the \_\_\_\_\_ day of the month preceding each such date (the "Record Date") on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Corporation. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Bond appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.



ANY ACCRUED INTEREST due at maturity or upon the redemption of this Bond prior to maturity as provided herein shall be paid to the registered owner upon presentation and surrender of this Bond for redemption and payment at the principal corporate trust office of the Paying Agent/Registrar. The Corporation covenants with the registered owner of this Bond that on or before each principal payment date, interest payment date, and accrued interest payment date for this Bond it will make available to the Paying Agent/Registrar, from the "Debt Service Fund" created by the Bond Resolution, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Bonds, when due.

IF THE DATE for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day that is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS BOND is one of a series of Bonds dated \_\_\_\_\_, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$\_\_\_\_\_ for the public purposes of (i) acquiring, installing, constructing and equipping a new convention center facility in the City, including specifically acquiring, installing, constructing and equipping public meeting, convention and exhibit space in the convention center facility and related parking and infrastructure and other purposes permitted by law (the "Project"), (ii) funding the reserve fund for the Bonds (if so provided in the Pricing Certificate) and (iii) providing funds to pay the costs of issuance of the Bonds.

ON \_\_\_\_\_, or on any date thereafter, the Bonds of this series may be redeemed prior to their scheduled maturities, at the option of the Corporation, with funds derived from any available and lawful source, as a whole, or in part, and, if in part, the particular Bonds, or portions thereof, to be redeemed shall be selected and designated by the Corporation (provided that a portion of a Bond may be redeemed only in an integral multiple of \$5,000), at a redemption price equal to the principal amount to be redeemed plus accrued interest to the date fixed for redemption.

THE BONDS SCHEDULED TO MATURE on \_\_\_\_\_ in the years \_\_\_\_ and \_\_\_\_ (the "Term Bonds") are subject to scheduled mandatory redemption by the Paying Agent/Registrar by lot, or by any other customary method that results in a random selection, at a price equal to the principal amount thereof, plus accrued interest to the redemption date, out of moneys available for such purpose in the interest and sinking fund for the Bonds, on the dates and in the respective principal amounts, set forth in the following schedule:

Term Bond		Term Bond	
Maturity: _____,		Maturity: _____,	
Mandatory Redemption Date	Principal Amount	Mandatory Redemption Date	Principal Amount
_____, ____	\$ _____	_____, ____	\$ _____
_____, ____	_____	_____, ____	_____
_____, ____ (maturity)	_____	_____, ____ (maturity)	_____

The principal amount of Term Bonds of a stated maturity required to be redeemed on any mandatory redemption date pursuant to the operation of the mandatory sinking fund redemption provisions shall be reduced, at the option of the Corporation, by the principal amount of any Term Bonds of the same maturity which, at least forty-five (45) days prior to a mandatory redemption date (1) shall have been acquired by the Corporation at a price not exceeding the principal amount of such Term Bonds plus



accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the Corporation at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase, or (3) shall have been redeemed pursuant to the optional redemption provisions and not theretofore credited against a mandatory redemption requirement.

AT LEAST THIRTY (30) days prior to the date fixed for any redemption of Bonds or portions thereof prior to maturity a written notice of such redemption shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, at least thirty (30) days prior to the date fixed for any such redemption, to the registered owner of each Bond to be redeemed at its address as it appeared on the 45th day prior to such redemption date; provided, however, that the failure of the registered owner to receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Bond. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Bonds or portions thereof that are to be so redeemed. If such written notice of redemption is sent and if due provision for such payment is made, all as provided above, the Bonds or portions thereof that are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the registered owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Bond shall be redeemed, a substitute Bond or Bonds having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the registered owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the registered owner upon the surrender thereof for cancellation, at the expense of the Corporation, all as provided in the Bond Resolution.

WITH RESPECT TO ANY OPTIONAL REDEMPTION OF THE BONDS, unless certain prerequisites to such redemption required by this Resolution have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the Corporation, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the Corporation shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

ALL BONDS OF THIS SERIES are issuable solely as fully registered bonds, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Bond Resolution, this Bond may, at the request of the registered owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered Bonds, without interest coupons, payable to the appropriate registered owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate registered owner, assignee or assignees, as the case may be, upon surrender of this Bond to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Bond Resolution. Among other requirements for such assignment and transfer, this Bond must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Bond or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Bond or any such portion or

portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Bond may be executed by the registered owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Bond or any portion or portions hereof from time to time by the registered owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Bond or portion thereof will be paid by the Corporation. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, conversion, or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) with respect to any Bond or any portion thereof called for redemption prior to maturity, within forty-five (45) days prior to its redemption date.

IN THE EVENT any Paying Agent/Registrar for the Bonds is changed by the Corporation, resigns, or otherwise ceases to act as such, the Corporation has covenanted in the Bond Resolution that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the registered owners of the Bonds.

IT IS HEREBY certified, recited, and covenanted that this Bond has been duly and validly authorized, issued, sold, and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the authorization, issuance, and delivery of this Bond have been performed, existed, and been done in accordance with law; that this Bond is a special obligation of the Corporation; that neither the State of Texas, the City, nor any political corporation, subdivision, or agency of the State of Texas, nor any member of the Board of Directors of the Corporation, either individually or collectively, shall be obligated to pay the principal of or the interest on this Bond and neither the faith and credit nor the taxing power (except as described below) of the State of Texas, the City, or any other political corporation, subdivision, or agency thereof is pledged to the payment of the principal of or the interest on this Bond; that the principal of and interest on this Bond are secured by and, together with certain outstanding bonds of the Corporation, payable from a first lien on and pledge of certain funds created under the Resolution and the revenues defined in the Resolution as the "Pledged Revenues", which include the proceeds of a one-quarter of one percent sales and use tax levied and collected for the benefit of the Corporation by the City (the "Sales Tax") pursuant to the Development Corporation Act, Chapters 501, 502 and 505, Texas Local Government Code, as amended (the "Act"); and that the Registered Owner hereof shall not have the right to demand payment of the principal of or interest on this Bond from any tax proceeds, other than the Sales Tax proceeds levied for the benefit of the Corporation by the City pursuant to the Act, or from any other source.

THE CORPORATION HAS RESERVED the right in the Bond Resolution, subject to certain conditions set forth therein, to issue obligations or incur indebtedness from time to time in the future on a parity with the Bonds with respect to the pledge of and lien on the Pledged Revenues which secures the Bonds. The Corporation may also issue obligations or incur indebtedness which is secured on a junior and subordinate lien with respect to the Pledged Revenues. The Bond Resolution further provides that the Corporation may create a debt service reserve fund and fund it or provide for it to be funded in connection with the issuance of any obligations or the incurrence of any indebtedness which possesses a lien on and pledge of the Pledged Revenues on a parity with the Bonds. The Corporation has created a debt service reserve fund for the benefit of the Bonds, as provided in the Bond Resolution.

THE CORPORATION HAS RESERVED THE RIGHT to amend the Bond Resolution as provided therein, and under some (but not all) circumstances amendments thereto must be approved by the registered owners of a majority in aggregate principal amount of the outstanding Bonds.

BY BECOMING the registered owner of this Bond, the registered owner thereby acknowledges all of the terms and provisions of the Bond Resolution, agrees to be bound by such terms and provisions, acknowledges that the Bond Resolution is duly recorded and available for inspection in the official minutes and records of the governing body of the Corporation, and agrees that the terms and provisions of this Bond and the Bond Resolution constitute a contract between each registered owner hereof and the Corporation.

IN WITNESS WHEREOF, the Corporation has caused this Bond to be signed with the manual or facsimile signature of the President of the Board of Directors of the Corporation and countersigned with the manual or facsimile signature of the Secretary of the Board of Directors of said Corporation, and has caused the official seal of the Corporation to be duly impressed, or placed in facsimile, on this Bond.

\_\_\_\_\_  
Secretary, Board of Directors

\_\_\_\_\_  
President, Board of Directors

(SEAL)

(b) Form of Paying Agent/Registrar's Authentication Certificate.

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE  
(To be executed if this Bond is not accompanied by an executed Registration  
Certificate of the Comptroller of Public Accounts of the State of Texas)

It is hereby certified that this Bond has been issued under the provisions of the Bond Resolution described in the text of this Bond; and that this Bond has been issued in conversion or replacement of, or in exchange for, a Bond, Bonds, or a portion of a Bond or Bonds of a series that originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Paying Agent/Registrar

By:

Authorized Representative

(c) Form of Assignment.

ASSIGNMENT  
(Please type or print clearly)

For value received, the undersigned hereby sells, assigns and transfers unto: \_\_\_\_\_

\_\_\_\_\_  
Transferee's Social Security or Taxpayer Identification Number: \_\_\_\_\_

Transferee's name and address, including zip code: \_\_\_\_\_

\_\_\_\_\_  
the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_

\_\_\_\_\_, attorney, to register the transfer of the within  
Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_.

Signature Guaranteed: \_\_\_\_\_

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a securities transfer association recognized signature guarantee program.

NOTICE: The signature above must correspond with the name of the Registered Owner as it appears upon the front of this Bond in every particular, without alteration or enlargement or any change whatsoever.

(d) Form of Registration Certificate of the Comptroller of Public Accounts.

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. \_\_\_\_\_

I hereby certify that there is on file and of record in my office a true and correct copy of the opinion of the Attorney General of the State of Texas approving this Bond and that this Bond has been registered this day by me.

Witness my signature and seal this \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts of the State of  
Texas

(COMPTROLLER'S SEAL)

(e) Initial Bond Insertions.

(i) The initial Bond shall be in the form set forth is paragraph (a) of this Section, except that:

A. immediately under the name of the Bond, the headings "Interest Rate" and "Maturity Date" shall both be completed with the words "As shown below" and "CUSIP No. \_\_\_\_\_" shall be deleted.

B. the first paragraph shall be deleted and the following will be inserted:

"WICHITA FALLS 4B SALES TAX CORPORATION (the "Corporation"), being a nonstock, nonprofit industrial development corporation created, existing and governed by V.T.C.A, Local Government Code, Title 12, Subtitle C1, as amended (the "Act"), specifically Chapters 501, 502 and 505 thereof (the "Act"), and acting on behalf of the City of Wichita Falls, Texas (the "City"), for value received, promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on \_\_\_\_\_ in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Years</u>	<u>Principal Installments</u>	<u>Interest Rates</u>
--------------	-----------------------------------	-----------------------

(Information from Section 3 to be inserted)

The Corporation promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from \_\_\_\_\_, at the respective Interest Rate per annum specified above. Interest is payable on \_\_\_\_\_, and semiannually on each \_\_\_\_\_ and \_\_\_\_\_ thereafter to the date of payment of the principal installment specified above, or the date of redemption prior to maturity; except, that if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full.”

C. The Initial Bond shall be numbered “T-1.”

#### Section 6. CONFIRMATION OF LEVY OF SALES TAX.

(a) The Corporation hereby confirms the earlier levy by the City of the Sales Tax at the rate voted at the election held by and within the City of January 18, 1997, and the Corporation hereby warrants and represents that the City has duly and lawfully ordered the imposition and collection of the Sales Tax upon all sales, uses and transactions as are permitted by and described in the Act throughout the boundaries of the City as such boundaries existed on the date of said election and as they may be expanded from time to time.

(b) For so long as any Parity Revenue Obligations are outstanding, the Corporation covenants, agrees and warrants to take and pursue all action permissible under applicable law to cause the Sales Tax, at said rate or at a higher rate if permitted by applicable law, to be levied and collected continuously, in the manner and to the maximum extent permitted by applicable law, and to cause no reduction, abatement or exemption in the Sales Tax or rate of tax below the rate stated, confirmed and ordered in Subsection (a) of this Section to be ordered or permitted so long as any Parity Revenue Obligations shall remain outstanding.

(c) If the City shall be authorized hereafter by applicable law to apply, impose and levy the Sales Tax on any taxable items or transactions that are not subject to the Sales Tax on the date of the adoption hereof, the Corporation, to the extent it legally may do so, hereby covenants and agrees to use its best efforts to cause the City to take such action as may be required by applicable law to subject such taxable items or transactions to the Sales Tax.

(d) The Corporation agrees to take and pursue all action permissible under applicable law to cause the Sales Tax to be collected and remitted and deposited as herein required and as required by the Act, at the earliest and most frequent times permitted by applicable law.

(e) The Corporation agrees and covenants at all times, and to use its best efforts to cause the City, to comply with the Sales Tax Remittance Agreement.

#### Section 7. PLEDGE.

(a) The Pledged Revenues (with the exception of those in excess of the amounts required to establish and maintain the Funds as hereinafter provided) are hereby pledged for the payment of the principal of and interest on all Parity Revenue Obligations which are or may be outstanding from time to time, including the establishment and maintenance of the Reserve Fund hereinafter provided.

(b) The provisions, covenants, pledge and lien on and against the Pledged Revenues, as herein set forth, are established and shall be for the equal benefit, protection and security of the Registered Owners of the Parity Revenue Obligations without distinction as to priority and rights; and such lien shall be valid and binding without any further action by the Corporation and without any filing or recording with respect thereto other than in the records of the Corporation.

(c) The Parity Revenue Obligations, including interest payable thereon, shall constitute special, limited obligations of the Corporation, payable solely from, and secured by a pledge of and lien on, the Pledged Revenues as provided in this Resolution and not from any other revenues, properties or income of the Corporation. Parity Revenue Obligations shall not constitute debts or obligations of the State or of the City or any other political subdivision of the State, and the Registered Owners of the Parity Revenue Obligations shall never have the right to demand payment out of any funds raised or to be raised by ad valorem taxation.

(d) Article 1208, Government Code, applies to the issuance of the Bonds and the pledge of the Pledged Revenues granted by the Corporation under this Section, and is therefore valid, effective, and perfected. Should Texas law be amended at any time while the Bonds are outstanding and unpaid, the result of such amendment being that the pledge of the taxes granted by the Corporation under this Section is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, in order to preserve to the Registered Owners of the Bonds a security interest in said pledge, the Corporation agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing of a security interest in said pledge to occur.

#### Section 8. CREATION OF FUNDS.

(a) The Corporation hereby confirms the establishment of the following funds:

- (i) Project Development Fund;
- (ii) Economic Development Fund;
- (iii) Gross Sales Tax Revenue Fund;
- (iv) Debt Service Fund;
- (v) Reserve Fund; and
- (vi) Rebate Fund.

(b) The establishment of the Project Development Fund is hereby approved and shall be maintained for the purpose, and moneys on deposit therein shall be used for, paying costs of projects for which Parity Revenue Obligations from time to time are issued. The Project Development Fund at all times shall be free of any lien, pledge or trust created by this Resolution and the resolution or resolutions authorizing Additional Parity Revenue Obligations.

(c) The establishment of the Economic Development Fund is hereby approved and shall be maintained as a fund of the Corporation to be used for the lawful purposes of the Corporation;

(d) The establishment of the Gross Sales Tax Revenue Fund is hereby approved and shall be maintained as a special fund or account within the Economic Development Fund comprised of the Gross Sales Tax Revenues, together with all other revenues as from time to time may be determined for deposit

therein by the Corporation, and shall be maintained for the benefit of the Registered Owners of the Parity Revenue Obligations, subject to the further provisions of this Resolution including the payment requirements of the Prior Lien Obligation.

(e) The establishment of the Debt Service Fund is hereby approved and shall be maintained for the benefit of the Registered Owners of the Parity Revenue Obligations. Money deposited in the Debt Service Fund shall be used to pay the principal of and interest on the Parity Revenue Obligations when and as the same shall become due and payable.

(f) The establishment of the Reserve Fund is hereby approved and shall be maintained for the benefit of the Registered Owners of the Parity Revenue Obligations. Money deposited in the Reserve Fund shall be used to pay principal of and/or interest on Parity Revenue Obligations becoming due and payable when there is not sufficient money available in the Debt Service Fund for such purpose.

Section 9. INITIAL DEPOSITS. On the Closing Date, the Corporation shall cause the proceeds of the Bond to be applied as follows:

(i) the amount necessary to pay the costs of the Project shall be deposited to the credit of a separate account within the Project Development Fund to be entitled "Series 2021 Project Development Account," to be used for funding the Project;

(ii) The amount required to fund the Reserve Requirement attributable to the Bonds shall be deposited into the Reserve Fund, if so prescribed in the Pricing Certificate;

(iii) the amount necessary to pay costs of issuance of the Bonds shall be disbursed for such purpose; and

(iv) any proceeds of the Bonds not required for the purposes for which the Bonds are issued shall be deposited to the Debt Service Fund.

Section 10. GROSS SALES TAX REVENUE FUND.

(a) All Gross Sales Tax Revenues shall be deposited and transferred as received to the Gross Sales Tax Revenue Fund.

(b) Moneys deposited in the Gross Sales Tax Revenue Fund shall be pledged and appropriated to the following uses, in the order of priority shown:

(i) To the payment, without priority, of the amounts required to be deposited in the Debt Service Fund for the payment of Parity Revenue Obligations;

(ii) To the payment of the amounts required to be deposited in the Reserve Fund pursuant to this Resolution or any resolution relating to the issuance of Parity Revenue Obligations;

(iii) To any other fund or account required by any resolution authorizing Parity Revenue Obligations, the amounts required to be deposited therein;

(iv) To any fund or account, or to any payee, required by any other resolution of the Board which authorizes the issuance of obligations or the creation of debt of the Corporation having a lien on the Pledged Revenues subordinate to the lien and pledge created herein with respect to the Parity Revenue Obligations; and

- (v) To any other purpose now or hereafter permitted by law.

Section 11. DEBT SERVICE FUND.

(a) The Corporation hereby covenants and agrees to make deposits to the Debt Service Fund from moneys in the Gross Sales Tax Revenue Fund to pay the principal of and interest on the Parity Revenue Obligations as follows:

(i) Such amounts, on deposit and received following the Closing Date, as will be sufficient, together with other amounts, if any, then on hand in the Debt Service Fund and available for such purpose, to pay the interest scheduled to accrue and become due and payable with respect to the Parity Revenue Obligations on the next succeeding Interest Payment Date;

(ii) Such amounts, on deposit and received following the Closing Date, as will be sufficient, together with other amounts, if any, on hand in the Debt Service Fund and available for such purpose, to pay the principal scheduled to mature and come due on the Parity Revenue Obligations on the next succeeding Interest Payment Date on which principal of the Bonds are to be payable.

(b) The deposits to the Debt Service Fund for the payment of principal of and interest on the Parity Revenue Obligations shall continue to be made as hereinabove provided until such time as (i) the total amount on deposit in the Debt Service Fund and Reserve Fund is equal to the amount required to pay all outstanding obligations (principal and/or interest) for which said Fund was created and established to pay or (ii) the Parity Revenue Obligations are no longer outstanding, i.e., fully paid as to principal and interest or all of the Parity Revenue Obligations have been refunded.

Section 12. RESERVE FUND.

(a) The Corporation hereby covenants and agrees with the holders of the Parity Revenue Obligations to accumulate and maintain in the Reserve Fund an amount (the "Reserve Requirement") equal to the lesser of (i) the average annual principal and interest requirements of the Parity Revenue Obligations to be outstanding after the issuance or incurring of such Additional Parity Obligations, calculated on a Fiscal Year basis as of the date the Additional Parity Obligations are issued or incurred or (ii) an amount in a reasonably required reserve fund that can be invested without restriction as to yield pursuant to Subsection (d) of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder.

(b) Immediately following the delivery of each issue or series of Additional Parity Obligations, the Corporation shall cause the Reserve Requirement to be calculated after giving effect to the issuance of such Additional Parity Obligations. Any additional amount required to be deposited in the Reserve Fund shall be accumulated therein within five (5) calendar years of the delivery date of such Additional Parity Obligations. Should the amount on deposit in the Reserve Fund be reduced below the sum required to be maintained in said Fund, payments to said Fund shall be made from the first Pledged Revenues available for such purpose, until the total amount then required to be on deposit in the Reserve Fund has been fully restored. In the event money in the Reserve Fund is used for an authorized purpose while payments are being made to said Fund, the amount required to restore the sum then required to be on deposit therein shall be added to the payments then being made until the total amount then required to be on deposit in said Fund has been fully restored. Any funds on deposit in the Reserve Fund in excess of the Reserve Requirement may, at the option of the Corporation, be withdrawn and used for any lawful purpose for which said funds may be used.



(c) In connection with the issuance of the Bonds, the Reserve Fund shall be funded as provided in the Pricing Certificate.

Section 13. DEFICIENCIES IN FUNDS. If the Corporation shall, for any reason, fail to pay into the Debt Service Fund or Reserve Fund the full amounts above stipulated, amounts equivalent to such deficiencies shall be set apart and paid into said funds from the first available Pledged Revenues of the Corporation and such payments shall be in addition to the amounts hereinabove provided to be otherwise paid into said funds.

Section 14. SECURITY OF FUNDS. All moneys on deposit in the funds referred to in this Resolution shall be secured in the manner and to the fullest extent required by the laws of the State of Texas for the security of funds of the City, and moneys on deposit in such funds shall be used only for the purposes permitted by this Resolution.

Section 15. INVESTMENTS.

(a) Money in the funds established by this Resolution, at the option of the Corporation, may be invested in such securities or obligations as permitted under the laws of the State of Texas applicable to the City.

(b) Any securities or obligations in which money is so invested shall be sold and the proceeds of sale shall be timely applied to the making of all payments required to be made from the fund from which the investment was made.

Section 16. ISSUANCE OF ADDITIONAL PARITY OBLIGATIONS AUTHORIZED. In addition to the right to issue obligations of inferior lien, the Corporation reserves the right to issue Additional Parity Obligations which, when duly authorized and issued in compliance with law and the terms and conditions hereinafter appearing, shall be on a parity with the Parity Revenue Obligations, payable from and equally and ratably secured by a lien on and pledge of the Pledged Revenues; and the Parity Revenue Obligations and Additional Parity Obligations shall in all respects be of equal dignity. The Additional Parity Obligations may be issued in one or more installments, provided, however, that none shall be issued unless and until the following conditions have been met:

(a) The Corporation is not then in default as to any covenant, condition or obligation prescribed in a resolution authorizing the issuance of the outstanding Parity Revenue Obligations.

(b) Each of the funds created for the payment, security and benefit of the Parity Revenue Obligations contains the amount of money then required to be on deposit therein or the issuance of such Additional Parity Obligations will cure any such deficiency.

(c) The Corporation has secured from a Certified Public Accountant or a Designated Financial Officer a certificate or report reflecting that for the Fiscal Year next preceding the date of the proposed Additional Parity Obligations or a consecutive twelve (12) month period out of the fifteen (15) month period next preceding the month in which the resolution authorizing the proposed Additional Parity Obligations is adopted, the Gross Sales Tax Revenues and interest earnings thereon were equal at least to (i) 1.25 times the average annual principal and interest requirements on all Parity Revenue Obligations to be outstanding after the issuance of the proposed Additional Parity Obligations and (ii) 1.10 times the maximum annual principal and interest requirements on all Parity Revenue Obligations to be outstanding after the issuance of the proposed Additional Parity Obligations; provided, however, that in the event an increase in the rate of the Sales Tax becomes effective prior to the date of a resolution authorizing the issuance of Additional Parity Obligations, such certificate or report shall

calculate the Gross Sales Tax Revenues for the calculation period as if such increased rate were in effect during the calculation period.

(d) The Additional Parity Obligations are made to mature on March 1 or September 1 (or such other maturity dates as may be consistent with the then outstanding bonds), either or both, of each year in which they are scheduled to mature.

(e) The resolution authorizing the Additional Parity Obligations provides that (i) the Debt Service Fund be augmented by amounts adequate to accumulate the sum required to pay the principal and interest on such obligations as the same shall become due, (ii) the amount to be deposited and maintained in the Reserve Fund shall be increased to an amount equal to the Reserve Requirement in accordance with Section 12(b), and (iii) any deficiency in the Reserve Fund shall be remedied as provided in Section 13.

(f) Parity Revenue Obligations may be refunded upon such terms and conditions as the Board may deem to be in the best interest of the Corporation; and if less than all such outstanding Parity Revenue Obligations are refunded, the proposed refunding obligations shall be considered as "Additional Parity Obligations" under the provisions of this Section, and the report or certificate required by paragraph (c) shall give effect to the issuance of the proposed refunding obligations and shall not give effect to the obligations being refunded.

#### Section 17. PLEDGED REVENUES.

(a) The Corporation represents and warrants that it is and will be authorized by applicable law and by its articles of incorporation and bylaws to authorize and issue the Bonds, to adopt this Resolution and to pledge the Pledged Revenues in the manner and to the extent provided in this Resolution, and that the Pledged Revenues so pledged are and will be and remain free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge and lien created in or authorized by this Resolution except as expressly provided herein for Parity Revenue Obligations.

(b) The Bonds and the provisions of this Resolution are and will be the valid and legally enforceable obligations of the Corporation in accordance with the terms of this Resolution, subject only to any applicable bankruptcy or insolvency laws or to any applicable law affecting creditors rights generally.

(c) The Corporation shall at all times, to the extent permitted by applicable law, defend, preserve and protect the pledge of the Pledged Revenues and all the rights of the Registered Owner under this Resolution against all claims and demands of all persons whomsoever.

(d) The Corporation will take, and use its best efforts to cause the City to take, all steps reasonably necessary and appropriate to collect all delinquencies in the collection of the Sales Tax to the fullest extent permitted by the Act and other applicable law.

(e) While the Bonds are outstanding, the Corporation will take all legal means and actions permissible to cause: the Sales Tax, at its current rate of 1/4 of 1% or at a higher rate if legally permitted, to be levied and collected continuously throughout the boundaries of the City, as such boundaries may be changed from time to time, in the manner and to the maximum extent legally permitted; and to cause no reduction, abatement or exemption in the Sales Tax until the Bonds has been paid in full or until they are lawfully defeased in accordance with this Resolution. If, subsequent to the issuance of the Bonds, the City is authorized by applicable law to impose and levy the Sales Tax on any items or transactions that are not subject to the Sales Tax on the date of adoption of this Resolution, the Corporation will use its best efforts to cause the City to take such action as may be required by applicable law to subject such items or transactions to the Sales Tax.

(f) The Sales Tax Remittance Agreement between the City and the Corporation is hereby approved and confirmed and shall remain in full force and effect in accordance with its terms.

Section 18. ACCOUNTS, PERIODICAL REPORTS AND CERTIFICATES.

(a) The Corporation shall keep or cause to be kept proper books of record and account (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the funds and accounts established by this Resolution and which, together with all other books and papers of the Corporation, shall at all times be subject to the inspection of, the Registered Owner of not less than 5% in principal amount of the Parity Revenue Obligations then outstanding or their representatives duly authorized in writing.

(b) The Corporation shall annually, within one hundred eighty (180) days after the close of each Fiscal Year, mail or cause to be mailed to any Holder owning at least 25% of the outstanding Parity Revenue Obligations of a single series who so requests in writing, a copy of an annual report for said year containing the following statements in reasonable detail with respect to the Corporation: a balance sheet as of the end of said year and the preceding year, statements of revenue and expense and of changes in financial position for the year then ended and the preceding year setting forth revenues and expenses for such years in accordance with generally accepted accounting principles.

Section 19. OTHER REPRESENTATIONS AND COVENANTS.

(a) The Corporation shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Corporation under the provisions of this Resolution.

(b) While the Bonds are outstanding and unpaid, there shall be made available to the Paying Agent/Registrar, out of the Debt Service Fund, money sufficient to pay the interest on and the principal of the Bonds, as applicable, as will accrue or mature on each applicable Interest Payment Date.

(c) The Corporation will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Resolution and in each Bond; and the Corporation will, at the times and in the manner prescribed by this Resolution, deposit or cause to be deposited the amounts of money specified by this Resolution.

(d) The Corporation is duly authorized under the laws of the State of Texas to issue the Bonds; all action on its part for the authorization and issuance of the Bonds has been duly and effectively taken; and the Bonds in the hands of the Registered Owners thereof is and will be valid and enforceable obligations of the Corporation in accordance with its terms. All proceedings related the issuance of the Bonds, the election of officers of the Corporation and the adoption and amendments of the bylaws of the Corporation are hereby ratified, approved and confirmed.

Section 20. REFUNDING BONDS. The Corporation reserves the right to issue refunding bonds or other obligations to refund all or any part of the Parity Revenue Obligations (pursuant to any law then available) upon such terms and conditions as the Board may deem to be in the best interest of the Corporation, and if less than all such Parity Revenue Obligations then Outstanding are refunded, the conditions precedent prescribed (for the issuance of Additional Obligations) set forth in Section 17 hereof shall be satisfied, and shall give effect to the refunding.

Section 21. SUBORDINATE DEBT. Except as may be limited by a resolution authorizing the issuance of Parity Revenue Obligations, the Corporation shall have the right to issue or create any debt payable from or secured by a lien on all or any part of the Pledged Revenues for any lawful purpose

without complying with the provisions of Section 16, provided the pledge and the lien securing such debt is subordinate to the pledge and lien established, made and created in Section 8 of this Resolution with respect to the Pledged Revenues to the payment and security of the Parity Revenue Obligations.

#### Section 22. DEFEASANCE OF BONDS.

(a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Bond") within the meaning of this Resolution, except to the extent provided in Subsection (d) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (the "Future Escrow Agreement") for such payment (1) lawful money of the United States of America sufficient to make such payment or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the Corporation with the Paying Agent/Registrar for the payment of its services until all Defeased Bonds shall have become due and payable, . At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied and pledged as provided in this Resolution, and such principal and interest shall be payable solely from such money or Defeasance Securities. Notwithstanding any other provision of this Resolution to the contrary, it is hereby provided that any determination not to redeem Defeased Bonds that is made in conjunction with the payment arrangements specified in Subsection (a)(i) or (ii) of this Section shall not be irrevocable, provided that: (1) in the proceedings providing for such payment arrangements, the Corporation expressly reserves the right to call the Defeased Bonds for redemption; (2) gives notice of the reservation of that right to the owners of the Defeased Bonds immediately following the making of the payment arrangements; and (3) directs that notice of the reservation be included in any redemption notices that it authorizes.

(b) Any moneys so deposited with the Paying Agent/Registrar may at the written direction of the Corporation be invested in Defeasance Securities, maturing in the amounts and times as hereinbefore set forth, and all income from such Defeasance Securities received by the Paying Agent/Registrar that is not required for the payment of the Bonds and interest thereon, with respect to which such money has been so deposited, shall be turned over to the Corporation, or deposited as directed in writing by the Corporation. Any Future Escrow Agreement pursuant to which the money and/or Defeasance Securities are held for the payment of Defeased Bonds may contain provisions permitting the investment or reinvestment of such moneys in Defeasance Securities or the substitution of other Defeasance Securities upon the satisfaction of the requirements specified in Subsection (a)(i) or (ii) of this Section. All income from such Defeasance Securities received by the Paying Agent/Registrar which is not required for the payment of the Defeased Bonds, with respect to which such money has been so deposited, shall be remitted to the Corporation or deposited as directed in writing by the Corporation.

(c) The term "Defeasance Securities" means any securities and obligations now or hereafter authorized by the laws of the State of Texas that are eligible to refund, retire or otherwise discharge obligations such as the Bonds. The Pricing Officer may restrict Defeasance Securities as deemed necessary.

(d) Until all Defeased Bonds shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Bonds the same as if they had not

been defeased, and the Corporation shall make proper arrangements to provide and pay for such services as required by this Resolution.

(c) In the event that the Corporation elects to defease less than all of the principal amount of Bonds of a maturity, the Paying Agent/Registrar shall select, or cause to be selected, such amount of Bonds by such random method as it deems fair and appropriate.

#### Section 23. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BOND.

(a) Replacement Bonds. In the event any outstanding Bond is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new Bond of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Bond, in replacement for such Bond in the manner hereinafter provided.

(b) Application for Replacement Bonds. Application for replacement of a damaged, mutilated, lost, stolen or destroyed Bond shall be made by the Registered Owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Bond, the Registered Owner applying for a replacement Bond shall furnish to the Corporation and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Bond, the Registered Owner shall furnish to the Corporation and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Bond, as the case may be. In every case of damage or mutilation of a Bond, the Registered Owner shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Bond shall have matured, and no default has occurred that is then continuing in the payment of the principal of or interest on the Bond, the Corporation may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Bond) instead of issuing a replacement Bond, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Bonds. Prior to the issuance of any replacement Bond, the Paying Agent/Registrar shall charge the Registered Owner of such Bond with all legal, printing, and other expenses in connection therewith. Every replacement Bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is lost, stolen or destroyed shall constitute a contractual obligation of the Corporation whether or not the lost, stolen or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Resolution.

(e) Authority for Issuing Replacement Bonds. In accordance with Sec. 1206.022, Government Code, this Section shall constitute authority for the issuance of any such replacement Bonds without necessity of further action by the governing body of the Corporation or any other body or person, and the duty of the replacement of such Bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Bonds in the form and manner and with the effect, as provided in Section 3(a) of this Resolution for a Bond issued in exchange for another Bond.

#### Section 24. CUSTODY, APPROVAL, AND REGISTRATION OF BONDS; BOND COUNSEL'S OPINION; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED; ENGAGEMENT OF BOND COUNSEL.

(a) The President of the Board is hereby authorized to have control of the Bond initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Initial Bond pending

its delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Initial Bond said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Initial Bond, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Initial Bond. The approving legal opinion of the Corporation's Bond Counsel and the assigned CUSIP numbers (if obtained) may, at the option of the Corporation, be printed on the Bonds issued and delivered under this Resolution, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Bonds. In addition, if bond insurance is obtained, the Bonds may bear an appropriate legend as provided by the insurer.

(b) The obligation of the initial purchaser to accept delivery of the Bonds are subject to the initial purchaser being furnished with the final, approving opinion of McCall, Parkhurst & Horton L.L.P., bond counsel to the Corporation, which opinion shall be dated as of and delivered on the date of initial delivery of the Bonds to the initial purchaser. The engagement of such firm as bond counsel to the Corporation in connection with issuance, sale and delivery of the Bonds are hereby approved and confirmed.

Section 25. RESERVED.

Section 26. SALE OF BONDS AND APPROVAL OF OFFICIAL STATEMENT.

(a) The Bonds shall be sold and delivered subject to the provisions of Sections 2 and 3 and pursuant to the terms and provisions of a bond purchase agreement or purchase letter (the "Purchase Agreement") which the Pricing Officer is hereby authorized to execute and deliver and in which the purchaser or purchasers (the "Purchaser") of the Bonds shall be designated. The Bonds shall initially be registered in the name set forth in the Pricing Certificate.

(b) The President and Secretary of the Board or the Pricing Officer are further authorized and directed to execute and deliver for and on behalf of the Corporation copies of a Preliminary Official Statement and Official Statement, prepared in connection with the offering of the Bonds by the Purchaser, in final form as may be required by the Purchaser, and such final Official Statement in the form and content as approved by the Pricing Officer or as manually executed by said officials shall be deemed to be approved by the Board of Directors of the Corporation and constitute the Official Statement authorized for distribution and use by the Purchaser. The form and substance of the Preliminary Official Statement for the Bonds and any addenda, supplement or amendment thereto, all as approved by the Pricing Officer, are hereby deemed to be approved in all respects by the Board of Directors of the Corporation, and the Preliminary Official Statement is hereby deemed final as of its date (except for the omission of pricing and related information) within the meaning and for the purpose of paragraph (b)(1) of the Rule (hereinafter defined).

(c) The Pricing Officer is authorized, in connection with effecting the sale of the Bonds, to obtain from a municipal bond insurance company so designated in the Pricing Certificate (the "Insurer") a municipal bond insurance policy (the "Insurance Policy") in support of the Bonds. To that end, should the Pricing Officer exercise such authority and commit the Corporation to obtain a municipal bond insurance policy, for so long as the Insurance Policy is in effect, the requirements of the Insurer relating to the issuance of the Insurance Policy as set forth in the Pricing Certificate are incorporated by reference into this Resolution and made a part hereof for all purposes, notwithstanding any other provision of this Resolution to the contrary. The Pricing Officer shall have the authority to execute any documents to effect the issuance of the Insurance Policy by the Insurer.

Section 27. FURTHER PROCEDURES. The President, Vice-President and Secretary of the Board, and/or any Pricing Officer, and each of them, shall be and they are hereby expressly authorized,

empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver on behalf of the Corporation all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Resolution, the Bonds, the sale of the Bonds and the Official Statement. In case any officer whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 28. COMPLIANCE WITH RULE 15c2-12.

(a) Applicability of Provisions. The provisions of this Section shall apply to the Bonds if so designated in the Pricing Certificate.

(b) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

“MSRB” means the Municipal Securities Rulemaking Board.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

(c) Annual Reports.

(i) The Corporation shall provide annually to the MSRB, in an electronic format as prescribed by the MSRB, within six months after the end of each fiscal year, financial information and operating data with respect to the Corporation of the general type described in the Pricing Certificate. The Corporation will additionally provide audited financial statements when and if available, and in any event, within twelve (12) months after the end of each fiscal year. If the audit of such financial statements is not complete within twelve (12) months after any such fiscal year end, then the Corporation will file unaudited financial statements within such twelve (12) month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available. Any financial statements so to be provided shall be the Pricing Certificate, or such other accounting principles as the Corporation may be required to employ from time to time pursuant to state law or regulation.

(ii) If the Corporation changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Corporation otherwise would be required to provide financial information and operating data pursuant to this Section. The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document that is available to the public on the MSRB's internet website or filed with the SEC. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

(d) Event Notices.

(i) The Corporation shall notify the MSRB in an electronic format as prescribed by the MSRB, in a timely manner (but not in excess of ten (10) business days after the occurrence of the event) of any of the following events with respect to the Bonds:

1. Principal and interest payment delinquencies;

2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other events affecting the tax status of the Bonds;
7. Modifications to rights of holders of the Bonds, if material;
8. Certificate calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership or similar event of the Corporation;
13. The consummation of a merger, consolidation, or acquisition involving the Corporation or the sale of all or substantially all of the assets of the Corporation, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. Appointment of a successor trustee or change in the name of the trustee, if material;
15. Incurrence of a financial obligation of the Corporation, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of any such financial obligation of the Corporation, any of which affect security holders, if material; and
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of any such financial obligation of the Corporation, any of which reflect financial difficulties.

As used in clause 12 above, the phrase “bankruptcy, insolvency, receivership or similar event” means the appointment of a receiver, fiscal agent or similar officer for the Corporation in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets of the Corporation, or if jurisdiction has been assumed by leaving the existing City Council and officials or officers of the Corporation in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Corporation. For the purposes of the above describe event notices 15 and 16, the term “financial obligation” means a (i) debt obligation, (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (iii) a guarantee of (i) or (ii); provided however, that a “financial obligation” shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

(ii) The Corporation shall notify the MSRB, in a timely manner, of any failure by the Corporation to provide financial information or operating data in accordance with subsection (c) of this Section by the time required by such subsection.



(e) Limitations, Disclaimers, and Amendments.

(i) The Corporation shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the Corporation remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the Corporation in any event will give notice of any deposit made in accordance with this Resolution or applicable law that causes Bonds no longer to be outstanding.

(ii) The provisions of this Section are for the sole benefit of the registered owners and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Corporation undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Corporation's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The Corporation does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

(iii) UNDER NO CIRCUMSTANCES SHALL THE CORPORATION BE LIABLE TO THE REGISTERED OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CORPORATION, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(iv) No default by the Corporation in observing or performing its obligations under this Section shall comprise a breach of or default under this Resolution for purposes of any other provision of this Resolution. Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Corporation under federal and state securities laws.

(v) Should the Rule be amended to obligate the Corporation to make filings with or provide notices to entities other than the MSRB, the Corporation hereby agrees to undertake such obligation with respect to the Bonds in accordance with the Rule as amended. The provisions of this Section may be amended by the Corporation from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Corporation, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the registered owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Resolution that authorizes such an amendment) of the outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the Corporation (such as nationally recognized bond counsel) determined that such amendment will not materially impair the interest of the registered owners and beneficial owners of the Bonds. The Corporation may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction

enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds. If the Corporation so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with subsection (b) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided.

Section 29. METHOD OF AMENDMENT. The Corporation hereby reserves the right to amend this Resolution subject to the following terms and conditions, to-wit:

(a) The Corporation may from time to time, without the consent of any holder, except as otherwise required by paragraph (b) below, amend or supplement this Resolution in order to (i) cure any ambiguity, defect or omission in this Resolution that does not materially adversely affect the interests of the holders, (ii) grant additional rights or security for the benefit of the holders, (iii) add events of default as shall not be inconsistent with the provisions of this Resolution and that shall not materially adversely affect the interests of the holders, (iv) qualify this Resolution under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, or (v) make such other provisions in regard to matters or questions arising under this Resolution as shall not be inconsistent with the provisions of this Resolution and that shall not in the opinion of nationally recognized bond counsel materially adversely affect the interests of the holders.

(b) Except as provided in paragraph (a) above, the holders of Bonds aggregating in principal amount 51% of the aggregate principal amount of then outstanding Bonds that are the subject of a proposed amendment shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the Corporation; provided, however, that without the consent of 100% of the holders in aggregate principal amount of the then outstanding Bonds, nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Resolution or in any of the Bonds so as to:

- (1) Make any change in the maturity of any of the outstanding Bonds;
- (2) Reduce the rate of interest borne by any of the outstanding Bonds;
- (3) Reduce the amount of the principal of, or redemption premium, if any, payable on any outstanding Bonds;
- (4) Modify the terms of payment of principal or of interest or redemption premium on outstanding Bonds or any of them or impose any condition with respect to such payment; or
- (5) Change the minimum percentage of the principal amount of the Bonds necessary for consent to such amendment.

(c) If at any time the Corporation shall desire to amend this Resolution under this Section, the Corporation shall send by U.S. mail to the Registered Owners of the Bonds a copy of the proposed amendment.

(d) Whenever at any time within one year from the date of mailing of such notice the Corporation shall receive an instrument or instruments executed by the Registered Owners of the Bonds, which instrument or instruments shall refer to the proposed amendment and that shall specifically consent

to and approve such amendment, the Corporation may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Resolution pursuant to the provisions of this Section, this Resolution shall be deemed to be modified and amended in accordance with such amendatory Resolution, and the respective rights, duties, and obligations of the Corporation and the Registered Owners of the Bonds shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the Registered Owners of the Bonds pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the filing of the notice provided for in this Section, and shall be conclusive and binding upon all future holders of the same Bonds during such period. Such consent may be revoked at any time after six months from the date of the mailing of said notice by the Registered Owners, or by a successor in title, by filing notice with the Corporation.

(g) For the purposes of establishing ownership of the Bonds, the Corporation shall rely solely upon the registration of the ownership of such Bonds on the registration books kept by the Paying Agent/Registrar.

#### Section 30. DEFAULT AND REMEDIES.

(a) Events of Default. Each of the following occurrences or events for the purpose of this Resolution is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the Corporation, the failure to perform which materially, adversely affects the rights of the Registered Owners of the Bonds, including, but not limited to, their prospect or ability to be repaid in accordance with this Resolution, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the Corporation.

(b) Remedies for Default.

(i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the Corporation for the purpose of protecting and enforcing the rights of the Registered Owners under this Resolution, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies.

(ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Bonds then outstanding.

(c) Remedies Not Exclusive.

(i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at

law or in equity; provided, however, that notwithstanding any other provision of this Resolution, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Resolution.

(ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(iii) By accepting the delivery of a Bond authorized under this Resolution, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Resolution do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or the Board of Directors of the Corporation.

Section 31. SALES TAX REMITTANCE AGREEMENT. The Sales Tax Remittance Agreement between the City and the Corporation is hereby approved and confirmed and shall remain in full force and effect in accordance with its terms.

Section 32. SEVERABILITY. If any section, article, paragraph, sentence, clause, phrase or word in this Resolution, or application thereof to any persons or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this Resolution, despite such invalidity, which remaining portions shall remain in full force and effect.

Section 33. EFFECTIVE DATE. In accordance with the provisions of V.T.C.A., Government Code Section 1201.028, this Resolution shall be effective immediately upon its adoption by the Board.

(execution page follows)

PASSED, APPROVED AND EFFECTIVE this \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
President, Board of Directors

\_\_\_\_\_  
Secretary, Board of Directors

[CORPORATION SEAL]

Exhibit B  
Sales Tax Remittance Agreement

## SALES TAX REMITTANCE AGREEMENT

THIS SALES TAX REMITTANCE AGREEMENT, dated as of August 3, 2021, executed by and between the City of Wichita Falls, Texas (the "City") and the Wichita Falls 4B Sales Tax Corporation (the "Corporation")

### WITNESSETH:

WHEREAS, the Corporation was created by the City pursuant to authority granted by Article 5190.6, Texas Revised Civil Statutes, as amended (the "Act"), specifically with the Corporation to possess the powers granted by Section 4B of the Act, and now operates under Chapter 505, Texas Local Government Code; and

WHEREAS, on January 18, 1997, the citizens of the City voting at an election (the "Election") on said date approved the levy of a one fourth of one percent (1/4%) sales and use tax upon the receipts at retail of taxable items, pursuant to the Act (the "4B Sales Tax"); and

WHEREAS, under the Act and the provisions of the Texas Tax Code, disbursements of sales and use taxes are made to cities, such as the City, by the Comptroller of Public Accounts of Texas (the "Comptroller"); and

WHEREAS, under authority of the Act, the Corporation was created to fund and finance eligible projects under the Act, particularly Section 4B thereof, and to secure said obligations with the 4B Sales Tax collected by the City under authority of Section 4B of the Act; and

WHEREAS, the parties hereto find it necessary and advisable to enter into this Agreement to evidence the duties and responsibilities of the respective parties with respect to the collection, remittance and transfer of such sales and use tax revenues.

NOW THEREFORE, in consideration of the covenants and agreements herein made, and subject to the conditions herein set forth, the City and the Corporation contract and agree as follows:

### ARTICLE I SALES TAX FUND

Section 1.1. Creation of Fund. The City agrees to establish and maintain at an official depository bank of the City (the "Depository"), a fund to be entitled "Wichita Falls 4B Sales Tax Corporation Sales and Use Tax Fund" (the "Sales Tax Fund"). The Sales Tax Fund shall be maintained as a separate fund at the Depository, and no other moneys of the City shall be commingled with the Sales Tax Fund.

Section 1.2. Deposits to Fund. The revenues received by the City from the Comptroller from the charge and levy of the 4B Sales Tax shall be deposited as received, or transmitted by the Comptroller directly, to the credit of the Sales Tax Fund, for the benefit of the Corporation, and shall be made available to the Corporation from time to time as hereinafter provided in this Agreement.

Section 1.3. Security for Fund. The City hereby agrees that moneys on deposit in the Sales Tax Fund shall at all times be collateralized in the manner and with the collateral required by the City for its own funds.

Section 1.4. Change in Depository. The City reserves the right from time to time to change its official depository bank, and hereby agrees to give the Corporation thirty (30) days prior written notice of any such change in its official depository bank.

ARTICLE II  
TRANSFER OF FUNDS

Section 2.1. Collection of 4B Sales Tax. (a) Until the Comptroller is able to determine and report the amount of the 4B Sales Tax levied for the benefit of the Corporation and any rebate, charge-back or adjustment thereof on a point of collection basis, the City will allocate a portion of the undivided sales and use tax receipts to the Corporation on the basis of the total sales and use taxes collected, multiplied by the pro rata portion of the 4B Sales Tax and divided by all other sales and use taxes received from the Comptroller by the City. In addition, the City will allocate the costs of any rebate or charge-back applicable to the undivided sales and use tax receipts between the City and the Corporation on a pro rata basis.

(b) The President of the Board of Directors of the Corporation and the chief financial officer of the City shall take such actions as are required to cause the 4B Sales Tax to be delivered and transferred by the Texas State Treasurer and the Comptroller to the City for use by the Corporation by the fastest and most economically feasible means available.

Section 2.2. Sales Tax Fund. The Corporation hereby confirms the City's depository bank as the depository bank for the Sales Tax Fund all as provided herein.

Section 2.3. Transfers to Sales Tax Fund. On or before the 25th day of each month, the City shall direct the Depository to transfer funds on deposit in the Sales Tax Fund to the credit of the Gross Sales Tax Revenue Fund of the Corporation. The City shall cause the Depository to make such transfers within twenty-four (24) hours of receipt of such direction to the extent that there are moneys on deposit in the Sales Tax Fund to effect such transfer.

Section 2.4. Use of Moneys by Corporation. The Corporation agrees to use the moneys on deposit in the Corporation's Revenue Fund in a manner consistent with the terms and conditions of the Act and the Election.

Section 2.5. Covenant of the City. Recognizing that the 4B Sales Tax shall provide the security for the Corporation's bonds and other obligations, so long as such bonds and other obligations are outstanding, the City covenants and agrees that it will take and pursue all possible action permitted by the Act and other applicable State law to cause the 4B Sales Tax to be levied and collected continuously at the rate of one fourth of one percent or, to the extent permitted by law and necessary or desirable, at a higher rate, and the City will not cause a reduction, abatement or exemption in the 4B Sales Tax or in the rate at which it is authorized to be collected.

ARTICLE III  
MISCELLANEOUS

Section 3.1. Depository Responsibilities. The President of the Board of Directors of the Corporation and the chief financial officer of the City shall develop procedures to ensure that the official depository bank of the City, as it may exist from time to time, shall be obligated to perform the duties detailed in this Agreement, and to that end the City agrees to incorporate into its agreement with its official depository bank a covenant by the official depository bank that it will perform all duties and obligations as a depository as set forth in this Agreement.



Section 3.2. Fees of Depository. In connection with the establishment and maintenance of the Sales Tax Fund, the Corporation agrees to pay the reasonable costs and expenses of the Depository associated with the administration of the Sales Tax Fund and such costs and expenses, if any, shall never constitute a cost, liability, or obligation of the City.

Section 3.3. Severability. If any clause, provision, or section of this Agreement should be held illegal or invalid by any court of competent jurisdiction, the invalidity of such clause, provision, or section shall not affect any of the remaining clauses, provisions, or sections hereof and this Agreement shall be construed and enforced as if such illegal or invalid clause, provision, or section had not been contained herein. In case any agreement or obligation contained in this Agreement should be held to be in violation of law, then such agreement or obligation shall be deemed to be the agreement or obligation of the City and the Corporation, as the case may be, to the full extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed in multiple counterparts, each of which shall be considered an original for all purposes, as of the day and year first set out above.

CITY OF WICHITA FALLS, TEXAS

By: \_\_\_\_\_  
Mayor

WICHITA FALLS 4B SALES TAX  
CORPORATION

By: \_\_\_\_\_  
President

**Resolution No. \_\_\_\_\_**

**Consider and approve a resolution of the Wichita Falls 4B Sales Tax Corporation 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**

WHEREAS, the City of Wichita Falls desires that OH-Wichita Falls, LLC, undertake the development of property at the site of the Multi-Purpose Events Center for a full-service convention center hotel and a future hotel; and,

WHEREAS, the 4B Sales Tax Corporation passed a resolution at its July 19, 2021 meeting, authorizing the issuance and sale of the Corporation's sales tax revenue bonds for the purposes of acquiring, installing, constructing, and equipping a new convention center facility in the City; and,

WHEREAS, the City Council has determined that such development is in the best interests of the City, and that approval of the resolution of the Wichita Falls 4B sales Tax Corporation authorizing the issuance of the Corporation's sales tax revenue bonds for such development should be hereby approved.

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

The resolution of the Wichita Falls 4B Sales Tax Corporation, authorizing the issuance of the Corporation's sales tax revenues bonds, approving a sales tax remittance agreement, and enacting other provisions related to the subject, is hereby approved.

PASSED AND APPROVED this the 3<sup>rd</sup> day of August, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

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**CITY COUNCIL AGENDA**  
**August 3, 2021**

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**ITEM/SUBJECT:** Resolution approving the programs and expenditures of the Wichita Falls Type B Sales Tax Corporation (4BSTC) Board of Directors and amending the budget to provide for a \$2 million forgivable loan and sales tax rebates in the form of a performance agreement between the 4BSTC and OH-Wichita Falls, LLC (developer), related to the acquisition and construction by developer of a new full-service convention center hotel facility in the City of Wichita Falls.

**INITIATING DEPT:** City Manager's Office

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**STRATEGIC GOAL:** (1) Accelerate Economic Growth, (2) Redevelop Downtown, (3) Provide Quality Infrastructure

**STRATEGIC OBJECTIVE:** (1) Attract Target Industries and Jobs, (2) Develop and Open a Convention Center Hotel, (3) Complete Signature Public Improvements

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**COMMENTARY:**

Project milestones to date:

- October 30, 2019 – Type B (4B) Board votes to authorize Chair to sign 3-way master development agreement (MDA) between O'Reilly Hospitality, 4B, and City outlining the framework of a proposed 200-room Delta by Marriot hotel and associated conference center adjacent to the existing MPEC facilities.
- November 19, 2019 – City Council authorizes City Manager to sign MDA.
- December 10, 2019 – Type B Board considers and approves a \$456,477 budget amendment facilitating the preconstruction costs of the proposed City/4B-owned conference center portion of the project.
- December 17, 2019 – City Council approves Type B budget amendment for conference center preconstruction costs.
- 2020 – Project on hold for most of the year due to covid-19 pandemic.
- Early 2021 – O'Reilly and City commence predevelopment activities including design and engineering of the privately funded hotel and the associated 4B-funded conference center.
- April 29, 2021 – Type B Corporation Board approves motion setting two (2) public hearings on June 3, 2021, related to the hotel and convention center project.
- May 12, 2021 – Planning and Zoning Commission (P&Z) approves subdivision plat dividing the project sites into separate lots.
- June 3, 2021 – Type B Corporation Board conducts two (2) public hearings related to the hotel and convention center project.
- July 19, 2021 – Type B Corporation Board approves several items advancing project including parameters resolution which authorized the Board Chair to execute all documents related to the funding of the conference center portion of the project.

- July 20, 2021 – City Council approves several items related to and advancing the project including a Chapter 380 Economic Development Agreement with OH-Wichita Falls and a related land sale agreement.
- August 3, 2021 – City Council to consider several items advancing project including (1) parameters resolution (previous item), and (2) performance agreement (this item).

In review, the proposed MPEC conference center and hotel project includes (1) a 200 room full-service Delta by Marriot hotel to be built, owned, and operated by O'Reilly Hospitality Management (OHP) at a cost of approximately \$48M paid for by OHP, and (2) an approximately 35,000 square foot attached conference/banquet facility that would complement and extend the MPEC's capabilities to be constructed by OHP and owned by the City at a total cost not to exceed \$19M. Today's consideration continues a series of items that, if approved, should lead to the commencement of construction this fall.

There are two (2) main pieces to this proposed performance agreement:

**Forgivable Loan:** The WF4BSTC agrees to provide OH-Wichita Falls up to \$2,000,000 to assist in the costs of Project in the form of loans that the WF4BSTC will forgive in their entirety if Company meets its obligations under this Agreement. The disbursements will not take place until Project is substantially complete and a Certificate of Occupancy is issued for the full-service hotel and the convention center. Should OH-Wichita Falls construct said convention hotel and then operate it successfully for five full years, for each year such goals are met, the loan will be forgiven at a rate of 20% so that after 5 such years, the loan will be forgiven in its entirety.

**Sales Tax Rebate:** The WF4BSTC agrees to provide OH-Wichita Falls a rebate of all documented sales taxes for purchases made in the city limits of Wichita Falls received by the WF4BSTC that were paid out by OH-Wichita Falls during the construction of the convention hotel. This sales tax rebate will not apply to the City-owned convention center. Additionally, on an annual basis, WF4BSTC will rebate all documented sales taxes for purchases made in the city limits of Wichita Falls collected by WF4BSTC that were paid out by OH-Wichita Falls during the first ten (10) years of operation of the convention hotel. This sales tax rebate will not apply to the City-owned convention center. WF4BSTC shall rebate the documented sales tax within thirty (30) days of receipt of satisfactory documentation.

Staff recommends approval of the resolution.

☒ **Assistant City Manager**

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**ASSOCIATED INFORMATION:** Resolution

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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Resolution No. \_\_\_\_\_

**Resolution approving the programs and expenditures of the Wichita Falls Type B Sales Tax Corporation (4BSTC) Board of Directors and amending the budget to provide for a \$2 million forgivable loan and sales tax rebates in the form of a performance agreement between the 4BSTC and OH-Wichita Falls, LLC (developer), related to the acquisition and construction by developer of a new full-service convention center hotel facility in the City of Wichita Falls**

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 July 19, 2021, the Wichita Falls 4B Sales Tax Corporation (4BSTC) 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 4B Sales Tax Corporation's approval and funding of the following programs and expenditures, as described below and in said Corporation's agenda, is approved:

**Consider and approve a resolution of the Wichita Falls 4B Sales Tax Corporation authorizing the 4B President to execute a performance agreement, in a form approved by the Board's attorney, with OH-Wichita Falls, LLC, which would provide for a \$2 million forgivable loan and sales tax rebates related to the acquisition and construction by developer of a hotel and a new full-service convention center hotel facility in the City of Wichita Falls.**

2. The current fiscal year budget of the 4B Sales Tax Corporation is amended to provide for the aforementioned expenditures and changes thereto.

PASSED AND APPROVED this the 3<sup>rd</sup> day of August, 2021.

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
City Clerk

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**CITY COUNCIL AGENDA**  
**August 3, 2021**

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**ITEM/SUBJECT:** Resolution reviewing and approving the updated investment policy for the City of Wichita Falls.

**INITIATING DEPT:** Finance

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**STRATEGIC GOAL:** Efficiently Deliver City Services

**STRATEGIC OBJECTIVE:** Streamline Municipal Business Practices

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**COMMENTARY:** As part of the financial management of the City, it is necessary for the City Council to review and approve the investment policy annually. Going forward this policy will annually be approved through passage of the budget document, as all other financial policies are. This policy updates the City's existing policy and implements and maintains standards for all investment activity and prioritizes safety of principle, liquidity and then yield. This policy has received a Certification of Distinction from the Government Treasures' Organization of Texas because it is in full compliance with the Texas Public Funds Investment Act. This policy outlines and assigns the roles and duties of the City's staff and financial advisors relating to investments, provides for safe keeping of funds, and includes the City's Broker/Dealer Certification.

The objectives of the City of Wichita Falls (the City) Investment Policy are:

- To set forth methods, means, and goals of financial investment and debt management operation for the City.
- To insure the financial security and optimum liquidity of the City's funds at all times.
- To assist the City in achieving the maximum total investment of the City's funds in a prudent manner at all times.
- To assist the City in achieving the maximum interest yield on the City's funds at all times through methods allowed under Federal and State Law and in accordance with the current City's Bank Depository Contract.

The City will utilize an investment strategy based on the Standard of Care, of this Policy, which also defines yield objectives, as well as compliance with the Public Funds Investment Act, Chapter 2256 of the Texas Government Code (the Act).

Staff recommends approval of this resolution.

☒ **Chief Financial Officer/Director of Finance**

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**ASSOCIATED INFORMATION:** Resolution

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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Resolution No. \_\_\_\_\_

**Resolution reviewing and approving the updated investment policy for the City of Wichita Falls**

WHEREAS, this policy updates the existing investment policy, and

WHEREAS, the City of Wichita Falls has received a Certificate of Distinction certifying this policies compliance with the Texas Public Funds Investment Act.

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

The attached **Investment Policy** for the City of Wichita Falls, is hereby adopted.

PASSED AND APPROVED this the 3rd day of August, 2021.

\_\_\_\_\_  
M A Y O R

ATTEST:

\_\_\_\_\_  
City Clerk



# City of Wichita Falls Investment Policy

Last updated: 07.19.21

## Contents

Introduction .....	7
Policy Statement .....	7
Policy Objectives .....	7
Investment Strategy .....	7
Scope & General Strategy .....	7
General Operating Funds .....	8
Bond Operating Funds .....	8
Debt Service Funds .....	8
Special and Trust Funds .....	8
Investment Officer .....	8
Conflicts of Interest & Ethics Disclosure .....	8
Investment Training .....	8
Diversification, Cash Flow & Portfolio Management .....	8
Standard of Care .....	9
Prudence .....	9
Investment Policy Certification .....	9
Authorized Investments .....	9
U.S. Treasury Securities .....	9
Federal Agencies .....	10
Municipal Bonds .....	10
Certificates of Deposit and Share Certificates .....	11
Repurchase Agreements .....	12
Bankers' Acceptances .....	12
Commercial Paper .....	12
Mutual Funds .....	12
Public Investment Pool .....	13
Competitive Bidding .....	13
Bidders List .....	13
Safekeeping and Collateralization .....	13
Evaluation and Reporting .....	14
Internal Controls .....	14

Securities Dealers/Transactions:.....	15
Exceptions to Policy .....	16
EXHIBIT B - PROHIBITED INVESTMENTS.....	17
EXHIBIT C - BROKER/DEALER CERTIFICATION FORM .....	18

# City of Wichita Falls, Texas

## Investment Policy

### Introduction

The purpose of this policy is to set forth specific policy and strategy guidelines for the City's investments. This policy shall guide the City in its investment activity pursuant to all applicable laws. Decision making, reporting, and portfolio guidelines are outlined here, as are the objectives, standard of care, and investment strategies. The City will prioritize the safety of principle and assets, liquidity and then yield. All investment activity will be guided by this policy. The policy will be reviewed annually by the City Council, City Manager, and the Investment Officer. <sup>1</sup>

Date of last review: 07.19.21.

### Policy Statement

The City of Wichita Falls, through this investment policy, will implement and maintain standards for all investment activity that will prioritize: <sup>2</sup>

1. Safety of principal
2. Liquidity
3. Yield

### Policy Objectives

The objectives of the City of Wichita Falls (the City) Investment Policy shall be:

- To set forth methods, means, and goals of financial investment and debt management operation for the City.
- To insure the financial security and optimum liquidity of the City's funds at all times.
- To assist the City in achieving the maximum total investment of the City's funds in a prudent manner at all times.
- To assist the City in achieving the maximum interest yield on the City's funds at all times through methods allowed under Federal and State Law and in accordance with the current City's Bank Depository Contract.

### Investment Strategy

The City maintains portfolios which utilize the following investment strategy considerations designed to address the unique characteristics of the fund groups represented in the portfolios.

#### *Scope & General Strategy*

The City's investment portfolio shall consist of a variety of securities which may include any or all of the authorized investments listed in Authorized Investments of this Policy. The City will maintain separate portfolios or one commingled portfolio which will utilize the specific investment strategy considerations list for each fund type below.

It shall be the general practice of the City to utilize an investment strategy based on the Standard of Care, of this Policy, which also defines yield objectives, as well as the Public Funds Investment Act, Chapter 2256 of the Texas Government Code (the Act). It is the City's intent to hold purchased securities to the stated maturity date and to have invested in such a manner to ensure both the safety and liquidity of such transaction.

The City will maintain a diversified investment portfolio with the intention of experiencing minimal volatility during economic cycles. In the event, however, the need arises to sell securities before the stated maturity date, said securities shall be analyzed to determine the appropriate time to liquidate said securities and minimize any potential real or book value loss to the City. In the event that an investment's rating is decreased, all prudent measures will be taken to determine if the quality of the investment remains within the investment standards of the City. If it does not, all prudent measures will be taken to liquidate the investment. <sup>3</sup>

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<sup>1</sup> In Compliance State of Texas, Public Funds Investment Act, with PFIA Sec. 2256.005.

<sup>2</sup> In accordance with the State of Texas, Public Funds Investment Act, 22556.005(b)(2) and 2256.005(b)(3).

<sup>3</sup> PFIA 2256.021

### General Operating Funds

The City's investment strategy for General Operating Funds shall be made to ensure that anticipated cash flows are matched with adequate investment liquidity.

### Bond Operating Funds

The City shall utilize an investment policy for Bond Operating Funds to generate a dependable revenue stream for the appropriate debt service funds consistent with the City's Investment Policy and state law.

### Debt Service Funds

The City shall utilize as the primary objective for the investment of Debt Service Funds adequate liquidity to cover the debt service obligation of the City on required payment dates. Investments shall not have a stated final maturity date which exceeds the appropriate debt service payment date.

### Special and Trust Funds

The City shall invest Special and Trust Funds in accordance with state law and the City's Investment Policy to the maximum ability that such investments may benefit the City directly, or utilize said funds in a method that such funds may benefit the City indirectly.

## **Investment Officer**

In accordance with PFIA 2256.005 (f), the City of Wichita Falls Chief Financial Officer is the Investment Officer (IO) and is responsible for establishing operating policies, which will ensure that investments are maintained in a proper and prudent maturity distribution, represent sound extensions of credit, and are appropriate investments with regard to regulatory and legal requirements. The IO will be accountable to the City Manager. Ultimate responsibility for management of the investment portfolio rests with the IO. It is expected that the IO may wish to delegate one or more of the specific investment objectives. Sales from the portfolio must be approved by the IO and the City Manager.

At least bi-annually, the City Council shall be provided with information regarding securities, purchases, and sales of the previous period to determine their adherence to the Investment Policy and applicable laws and regulations. Investment strategies should be formulated with special regard to the City's liquidity needs, cash flow requirements, the projected economic environment, and policy guidelines as established by the Investment Policy.

Summary information must be provided to the City Council on the composition, size, quality, maturity, yield, and current market valuations for the Investment Portfolio. Implementation of this policy is the responsibility of the Investment Officer.

### *Conflicts of Interest & Ethics Disclosure*

In accordance with this policy, the IO will file a disclosure statement with the Texas Ethics Commission and the governing body if:

The officer has a personal business relationship with a business organization offering to engage in an investment transaction with the City (as defined in 2256.005 (i)(1-3)); or the officer is related within the second degree by affinity or consanguinity, as determined under Chapter 573 of the Texas Government Code, to an individual seeking to transact investment business with the City.<sup>4</sup>

### *Investment Training*

Investment training is required for the treasurer, CFO, and the investment officer(s) of a local government. Training must be received from an independent source, approved by the City's governing body or investment committee, and must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with PFIA. Ten hours of training must be completed within 12 months of taking office or assuming duties. Thereafter, ten hours of training must be completed every two years.<sup>5</sup>

### *Diversification, Cash Flow & Portfolio Management*

The IO shall be required to diversify maturities. The IO, to the extent possible, will attempt to match investments with anticipated cash flow requirements. Matching maturities with cash flow dates will reduce the need to sell securities prior to maturity, thus reducing market risk. Unless

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<sup>4</sup> PFIA 2256.005 (i)

<sup>5</sup> PFIA 2256.008

matched to specific requirements, the IO may not invest more than 30% of the portfolio for a period greater than two (2) years.

### **Standard of Care**

The City's investments shall be made with judgment and care under circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived and optimum liquidity required for operations in the City. Safety shall be the first priority, adequate liquidity the second, and yield, the third priority. Individual investments shall be made in a manner consistent with this Policy.

### **Prudence**

The standard of prudence to be used in the investment function shall be the "prudent person" standard and shall be applied in the context of managing the overall portfolio. This standard states:

"Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the expected income to be derived."

### **Investment Policy Certification**

All investment activity under this policy requires that investments shall only be made with the business organizations (including money market mutual funds and local government investment pools) that have provided the City with a written instrument, executed by a qualified representative of the firm, acknowledging that the business organization has:

- a. received and reviewed the City's Investment Policy; and
- b. implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the entity and the organization that is not authorized by the entity's Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the City's entire portfolio or requires an interpretation of subjective investment standards.<sup>6</sup>

### **Authorized Investments**

In accordance with authorizing federal and state laws, the City's Depository Contract, and appropriate approved collateral provisions, the City may utilize the following types of investments for the City's funds:

- U.S. Treasury Securities
- Federal Agencies
- Municipal Bonds
- Certificates of Deposit and Share Certificates
- Repurchase Agreements
- Bankers' Acceptances
- Commercial Paper
- Mutual Funds
- Public Investment Pools

The City may invest in only these investments authorized by the Act, Sec. 2256.009. The City may not invest in any investments unauthorized by the Act, Sec. 2256.009(b)(1-4).

### ***U.S. Treasury Securities***

U.S. Treasury securities are direct obligations of the United States Government. U.S. Treasury obligations are the highest quality and are the most liquid and marketable of investment

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<sup>6</sup> PFIA 2256.005 (k-l)

securities. Investments in this category will include Treasury bills, Treasury notes, and Treasury bonds. U.S. Treasury bills are sold on a discount basis and have initial maturities of three months, six months, and one year. U.S. Treasury notes and Treasury bonds are coupon-bearing instruments with initial maturities from two to ten years for notes and ten to thirty years for bonds.

The average life of the U.S. Treasury securities portfolio will not exceed 2.5 years and no individual security will exceed 5 years in maturity. Treasuries may comprise up to 100% of the Investment Portfolio.

### *Federal Agencies*

After U.S. Treasury securities, Federal agency securities are generally regarded as the next highest quality investment suitable for the portfolio.

Federal agency obligations are usually acceptable for pledging and other collateral requirements. Agencies generally offer a rate of return slightly higher than direct U.S. Treasury securities. The spread difference in yield will be effected by the general level of interest rate, markets, and economic conditions at any given time. Consideration should be given to the spread relationship existing when portfolio investment decisions are made.

Securities included in this category are debt issuance by the Federal Farm Credit System (Farm Credits), Federal Home Loan Bank (FHLB), the Federal National Mortgage Association (FNMA), the Student Loan Marketing Association (SLMA), the Federal Home Loan Mortgage Corporation (FHLMC or "Freddie Mac"), the Government National Mortgage Association (GNMA or "Ginnie Mae"), and Small Business Administration (SBA).

The average life of the U.S. agency section of the portfolio will not exceed 2.5 years and no individual security will exceed 5 years in maturity. U.S. agencies may comprise up to 100% of the Investment Portfolio

### *Municipal Bonds*

Any direct obligations of the State of Texas or its agencies and instrumentalities, the IO shall consider prudent diversification of investment holdings per obligor. Compliance with all legal and regulatory guidelines shall be adhered to in the purchase and holding of securities. Taxable municipal obligation purchases may be made but are subject to the same credit, maturity, and geographic distribution requirements that may be applicable as dictated by the Investment Policy.

Credit information will be maintained sufficiently for management of the City to exercise an informed judgment in determining whether the securities should be purchased and to enable regulators to determine that each security purchased meets all statutory and regulatory requirements. Credit information sufficient for the IO and City Manager to comply with all statutory and regulatory requirements relating to the approval of each investment shall be provided. The City shall retain all records relating to transactions in its investment portfolio as may be required by statute or regulation.

Additional consideration will be given to the increased yield spread of taxable municipals over all other taxable investment alternatives.

Various political subdivisions of state and local government issue debt through municipal securities generally under two categories: general obligation (G.O.) and revenue bonds.

G.O. bonds are issued for a variety of public financing needs. They are generally regarded as the most credit worthy of municipal securities as they are backed by the taxing authority of the issuing governmental entity.

Revenue bonds are issued to finance specific projects (i.e. water and/or sewer revenues) and depend on the revenue or fee generated from the projects for repayment of principal and interest.

Bonds with a minimum Moody's Investors Service of A or Standard & Poor's Service rating of A shall be considered as eligible portfolio investments. An exception may be made for local, well-known credit issues where the cost of obtaining a credit rating by the issuing body is prohibitive.

Geographical distribution of municipals is an effective method of diversifying the City's overall credit risk and maximizing income potential.

The City will consider the following credit information on general obligation municipals to be purchased:

- 1) Relationship of debt burden to property valuation.
- 2) Reasonableness of debt burden on a per capita basis.
- 3) Sinking fund provisions.



- 4) Historical trends of debt.
- 5) Future debt service requirements.
- 6) Assessed valuation, including basis of assessment.
- 7) Relationship of tax burden to property valuation.
- 8) Tax collection record.
- 9) Recent trends in tax rates.
- 10) Economic background.
- 11) Debt paying ability.
- 12) Population trends.

The City will consider the following credit information on revenue municipals to be purchased:

- 1) The number of times gross revenue covers debt service (coverage).
- 2) The segregation of revenue funds from general funds.
- 3) The flow of revenues to specific reserve accounts.
- 4) Special covenants that may limit default remedies.

The average maturity of this section of the portfolio will be no greater than two years and comprise no more than 25% of the Investment Portfolio.

### *Certificates of Deposit and Share Certificates*

A certificate of deposit or share certificate is an authorized investment if the certificate is issued by a depository institution that has its main office or a branch office in the state of Texas, and is guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor, or secured by obligations described in the Act, including mortgage-backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage-backed securities of the nature described by the Act; or secured in any other manner and amount provided by law for deposits of the investing entity.

Total collateralized Certificates of Deposits may comprise 100% of the Investment Portfolio. The average maturity of this section of the portfolio will be no greater than two years.

In addition to the authority to invest funds in certificates of deposit under The Act, Sec. Sec. 2256.010, Subsection (a), an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this subchapter:

- (1) the funds are invested by an investing entity through a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;
- (2) the depository institution selected by the investing entity under Subdivision (1) arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;
- (3) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States;
- (4) the depository institution selected by the investing entity under Subdivision (1) acts as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity; and

- (5) at the same time that the funds are deposited and the certificates of deposit are issued for the account of the investing entity, the depository institution selected by the investing entity under Subdivision (1) receives an amount of deposits from customers of other federally insured depository institutions, wherever located, that is equal to or greater than the amount of the funds invested by the investing entity through the depository institution selected under Subdivision (1). (The Act, Sec. 2256.010)

### *Repurchase Agreements*

Fully collateralized repurchase agreements are authorized under the Act, Sec. 2256.011, if the repurchase agreement has a defined termination date; is secured by obligations described by the Act; and requires the securities being purchased by the entity to be pledged to the entity, held in the entity's name, and deposited at the time the investment is made with a third party selected and approved by the entity; and is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in the State of Texas.

"Repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date, obligations described by the Act at a market value at the time the funds are dispersed of not less than 102% of the principal amount of the funds dispersed. The term of the repurchase agreements may not exceed 180 days.

Notwithstanding any other law, the term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered. Money received by an entity under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement. Total investment in repurchase and reverse repurchase agreements may not exceed 25% of the Investment Portfolio.

### *Bankers' Acceptances*

Bankers' Acceptances are an authorized investment under the Act, which has a stated maturity of 270 days or fewer from the date of its issuance; will be, in accordance with its terms, liquidated in full at maturity; is eligible for collateral for borrowing from a Federal Reserve Bank; is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1+ or P-1 or an equivalent rating of at least one nationally recognized credit rating agency (The Act, Sec. 2256.012). Such individual transactions shall not exceed 5% of the total City's Investment Portfolio, and all such endorsing banks shall come only from a list of entities who are constantly monitored as to financial solvency. Total Bankers' Acceptances may not exceed 15% of the Investment Portfolio.

### *Commercial Paper*

The City may invest in Commercial Paper. The paper must have a stated maturity of 365 days or less from the date of issuance and a rating of A-1+ or P-1 or higher. If an equivalent rating system is used, the rating must be completed by at least two nationally recognized credit rating agencies or one nationally recognized credit rating agency and be fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state (The Act, Sec. 2256.013). Such transactions shall not exceed 15% of the total City's Investment Portfolio with no more than 5% in any one name, and all such providers of letters of credit shall come only from a list of entities who are constantly monitored as to financial solvency.

### *Mutual Funds*

No-load money market mutual funds regulated by the Securities and Exchange Commission, which has a dollar-weighted average stated maturity of 90 days or fewer, and include in its investment objectives the maintenance of a stable net asset value of \$1 for each share (The Act, Sec. 2256.014).

A no-load mutual fund is an authorized investment under this Subchapter if:

- It is registered with the Securities and Exchange Commission;

- The average weighted maturity is less than two years;
- It is invested exclusively in obligations approved by the Act;
- It is continuously rated as to investment quality, by at least one nationally recognized investment firm of not less than AAA or its equivalent;
- It conforms to the requirements set forth in the Act, relating to the eligibility of investment pools to receive and invest funds of investing entities.

The City is not authorized to invest, in aggregate, more than 80% of its monthly average fund balance, excluding bond proceeds, reserves and other funds held for debt service, in money market mutual funds as set forth herein above, or mutual funds as herein set forth above, either separately or collectively. The City may not invest, in aggregate, more than 15% of its monthly average fund balance, excluding bond proceeds, reserves, and other funds held for debt service, in mutual funds as herein above described. The City may not invest any portion of bond proceeds, reserves and funds held for debt service, in mutual funds herein described above; or invest its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund as herein set out above in an amount that exceeds 10% of the total assets of the mutual fund.

### *Public Investment Pool*

The City may invest in a public investment pool meeting the requirements of the Act. The Act, Sect. 2256.016, "An entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool shall invest the funds it receives from entities in authorized investments permitted by this subchapter. An investment pool may invest its funds in money market mutual funds to the extent permitted by and consistent with this subchapter and the investment policies and objectives adopted by the investment pool". Investment in this type of pool may not exceed 90% of the Investment Portfolio.

### *Competitive Bidding*

All individual security purchases and sales must include at least three competitive bids or offers. Competitive bidding requirements do not apply to the purchase or sale of money market mutual funds, local government investment pools, or when-issued securities, which are deemed to be made at prevailing market rates.

### *Bidders List*

In accordance with PFIA 2256.025, the City will establish and review, at least annually, a list of qualified brokers that are authorized to engage in investment transactions with the City. This list will be maintained by the City's Financial Advisors and made available upon request.

### *Safekeeping and Collateralization*

The laws of the State and prudent treasury management require that all purchased securities be bought on a delivery versus payment basis<sup>7</sup> and be held in safekeeping by either the City, an independent third party financial institution, or the City's designated depository.

All safekeeping arrangements shall be designated by the IO and an agreement of the terms executed in writing. Securities and collateral will be held by a third party custodian designated by the City and in the City's name. The third-party custodian shall be required to issue safekeeping receipts to the City listing each specific security, rate, description, maturity, cusip number, and other pertinent information. Each safekeeping receipt will be clearly marked that the security is held for the City or pledged to the City.

Collateralization shall be required on two types of investments certificates of deposits over the FDIC insurance coverage of \$250,000 and repurchase agreements.

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<sup>7</sup> PFIA 2256.005 (b)(4)(E)

In order to anticipate market changes and provide a level of additional security for all funds, the collateralization level required will be 102% of the market value of the principal and accrued interest.

## Evaluation and Reporting

The IO shall submit quarterly reports to the City Council containing sufficient information to permit an informed outside reader to evaluate the investment program.<sup>8</sup> At a minimum, this report shall:

- describe in detail the investment position of the entity on the date of the report;
- be prepared jointly by all investment officers of the entity;
- be signed by each investment officer of the entity;
- contain a summary statement of each pooled fund group that states the:
  - beginning market value for the reporting period;
  - ending market value for the period;
  - fully accrued interest for the reporting period;
  - the account or fund or pooled group fund in the City for which each individual investment was acquired; and
  - the compliance of the investment strategy expressed in the City's investment policy; and The Act.

For investments outside of the investment pools, the report may also contain:

- book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;
- the maturity date of each separately invested asset that has a maturity date;
- If the City invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the investment officers under this section shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the governing body by that auditor.
- Beginning and ending market value of the portfolio and total portfolio,
- Beginning and ending carrying (Book) value of the portfolio by market sector and total portfolio, if applicable,
- Transactions which change market and book value, detail reporting on each asset (book, market, and maturity dates at a minimum),
- Overall current yield of the portfolio, and
- Overall weighted average maturity of the portfolio, and maximum maturities in the portfolio.

## Internal Controls

Investments are audited in conjunction with the City's Annual Financial Audit. If investments are outside of money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts these investments are subject to a compliance audit of management controls and adherence to this investment policy.<sup>9</sup>

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<sup>8</sup> The Act, Sec. 2256.022

<sup>9</sup> *PFIA 2256.055 (m)*

Investments which may become ineligible after purchase, which were eligible at the time of purchase, will not be required to be liquidated until such investment reaches its date of maturity.<sup>10</sup>

### Securities Dealers/Transactions

The City has employed Sentry Management, Inc. (SMI) to provide professional investment advice for the City's investment portfolio and other related investment areas such as asset/liability and interest rate risk analysis. SMI is registered with the Securities and Exchange Commission as a registered investment adviser and municipal advisor. SMI may be employed on a set fee basis only, and may not act as a dealer.

The IO and City Manager recognize the importance of receiving objective, professional advice in management of the investment portfolio, however it is explicitly understood the City, through the IO, does not delegate responsibility for the portfolio to SMI. All acquisitions and/or sales of securities will be directly at the discretion of the City.

SMI places dealers in competition on purchases and sales and maintains records of each transaction. Transactions are done on a "best execution" basis which precludes limiting any individual dealer's securities' volume with the City. Setting maximum volume quotas could force the City to purchase or sell securities at less than the best price and would not be in the best interest of the City.

Further, SMI may not execute a transaction for the City without specific authorization from the City.

The City may have transactions with any Federal Reserve Reporting Government Dealer (Primary Dealer). The Federal Reserve requires all Primary Dealers to maintain large capital and be financially solvent.

In addition to Primary Dealers, the City may have security transactions with the dealers listed on Exhibit A. Current financial information is maintained by SMI on the dealers listed on Exhibit A and is made available to the City. Additionally, the City will maintain information on each dealer listed. The City may purchase or sell any of the approved investments listed in the Investment Policy from or to any of the approved securities dealers.

It shall be the City Manager's and the IO's responsibility to review the dealers' financial condition. Considerations of each dealer will be the dealer's capital and financial strength and general reputation with other financial institutions and investment dealers. Whenever available and possible, the City will consider information from state or federal securities regulators and securities industry self-regulatory organizations, such as the National Association of Securities Dealers, concerning any formal enforcement actions against the dealer, its affiliates or associated personnel.

In the event that Sentry Management is not involved in a transaction, the City will be responsible for the following:

Every dealer with whom the City transacts business will be offered a copy of this Investment Policy to assure that they are familiar with the goals and objectives of the investment program. The broker/dealer will be required to return a signed copy of the Certification Form certifying that the policy has been received and reviewed.

To further insulate the City from dealer exposure, the City will permit delivery-versus-payment settlement only on security transactions. Further, all securities will be held in safekeeping at the City's primary depository bank or another third party bank.

All personal securities transactions by the IO with the City's approved securities dealers are prohibited unless specific City Manager approval is received prior to the transaction. Periodic review of personal transactions with approved securities dealers will be performed by the City Manager.

All of the City's records are available for unannounced, on-site inspection at SMI offices by any representative of the City.

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<sup>10</sup> PFIA 2256.017

All investment management activities are to be conducted in accordance with the State of Texas, Public Funds Investment Act, 2256.005 (b)(3). Contracts with investment and financial advisors will be reviewed at least every three years, and put out to bid a minimum of once every 5 years from adoption of this policy.

### Exceptions to Policy

This policy is intended to be flexible to deal with rapidly changing conditions in the City's economic environment and the global bond and money markets. Therefore, this policy can be amended by a review of the City Manager and IO, and/or a majority vote of the City Council. If amended in substance by the City Manager and IO, the changes will be presented to the City Council at the next regularly scheduled meeting.

This policy shall be reviewed by the City Council, City Manager, IO at least annually.

## **EXHIBIT B - PROHIBITED INVESTMENTS**

Per 1995 Public Funds Investment Act

IO's	INTEREST ONLY STRIPPED SECURITIES WITH UNDERLYING MORTGAGE-BACKED SECURITY COLLATERAL.
PO's	PRINCIPAL ONLY STRIPPED SECURITIES WITH UNDERLYING MORTGAGE-BACKED SECURITY COLLATERAL.
CMO's	COLLATERALIZED MORTGAGE OBLIGATIONS WITH A MATURITY GREATER THAN TEN (10) YEARS.
CMO's	COLLATERALIZED MORTGAGE OBLIGATIONS, WHICH HAVE AN INVERSE FLOATING RATE (COUPON).

## EXHIBIT C - BROKER/DEALER CERTIFICATION FORM

As required by Texas Government Code 2256.005(k)

### City of Wichita Falls

The City acknowledges that the only means the firm has to preclude "imprudent" investment activities arising out of transactions between the firm and the City is to confirm that all provisions of the City's investment policy are followed in investment transactions conducted between the firm and the City, and, the second paragraph below should read accordingly.

I, as a registered principal for the firm \_\_\_\_\_, do hereby certify that I, and the officer covering this account, \_\_\_\_\_, have received and both have thoroughly reviewed the investment policy of the City.

We acknowledge that this firm has implemented reasonable internal procedures and controls in an effort to preclude imprudent investments between this firm and the City arising from transactions between the City and the firm.

\_\_\_\_\_  
Signature

NAME: G. Murphy Davis, CFA

TITLE: Chairman

DATE: \_\_\_\_\_





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## CITY COUNCIL AGENDA August 3, 2021

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**ITEM/SUBJECT:** Resolution approving a substantial amendment to the PY 2019 Annual Action Plan of the 2015-2019 Consolidated Plan of the City of Wichita Falls to receive and administer an additional \$594,749 through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) in a special allocation from the US Department of Housing and Urban Development (HUD).

**INITIATING DEPT:** Development Services/Neighborhood Resources

**STRATEGIC GOAL:** Accelerate Economic Growth and Actively Engage & Inform the Public

**STRATEGIC OBJECTIVE:** Revitalize Depressed and Declining Neighborhoods and Strengthen Supportive Partnerships with the Not-For-Profit Community

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**COMMENTARY:**

- March 26, & April 23, 2021: Social Service Agencies and City departments were sent applications to apply for CDBG funds
- May 7, 2021: Applications due
- June 8, 2021: Council Subcommittee on Outside Agencies met to receive applicant presentations for their proposed use of requested CDBG-CV funds and finalize funding recommendations for Council consideration/approval.
- July 13, 2021: First public hearing/forum regarding annual CDBG funding held
- July 20, 2021: Second required public hearing at City Council meeting
- August 3, 2021: Resolution approval to appropriate funding

Council conducted a public hearing on the proposed substantial amendment to the PY 2019 Annual Action Plan of the 2015-2019 Consolidated Plan at the June 20, 2021 meeting.

The City of Wichita Falls proposes to receive and administer a special allocation from the US Department of Housing and Urban Development to be used to prevent, prepare for, and respond to COVID-19. This allocation was authorized by the CARES Act, Public Law 116-136, and it includes \$594,749.00 in a second round of COVID funding to be included with the original \$733,264.00 under the Community Development Block Grant – Coronavirus (CDBG-CV). Accessing these funds would bring our total CDBG-CV funds received to \$1,328,013.00.

Proposed activities to be funded with the new allocation of \$594,749 and \$160,264 in reprogrammed funds, as recommended by staff and the Council Subcommittee on Outside Agencies, includes:

**CDBG-CV: Outside Agencies**

Arts Council / Art Education Technological & Disinfection Supplies	\$15,000.00
First Step / Disinfection & Sanitation Services and supplies	\$56,947.20
Community Healthcare Center / HVAC & Water Heater Replacement	\$49,075.05
<b>TOTAL CDBG-CV Funds: Outside Agencies</b>	<b>\$121,022.25</b>

**CDBG-CV: City Departments**

Grant Administration / Operational & administrative costs for CDBG Program	\$118,949.80
Minor Repair Program / Minor home repair for low-income homeowners	\$40,000.00
Emergency Repair Program / Immediate-need home repair for low-income homeowners	\$40,000.00
Unreserved / To Be Decided – Neighborhood Revitalization	\$435,040.95
<b>TOTAL CDBG-CV Funds: City Departments</b>	<b>\$633,990.75</b>

Staff recommends approval of the resolution amending the current year's funding plan as described above and as recommended by the City Council subcommittee.

☒ **Director of Development Services**

☒ **Assistant City Manager**

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**ASSOCIATED INFORMATION:** Resolution , Table of Awarded Funds

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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Resolution No. \_\_\_\_\_

**Resolution approving a substantial amendment to the PY 2019 Annual Action Plan of the 2015-2019 Consolidated Plan of the City of Wichita Falls to receive and administer an additional \$594,749 for a total of \$1,328,013 through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) in a special allocation from US Department of Housing and Urban Development**

WHEREAS, the City of Wichita Falls acting in its capacity as a HUD Grantee administers federally-funded programs to the benefit of the community; and,

WHEREAS, the City Council has held a public hearing to receive citizen input and the City Manager and staff have recommended this change to the PY 2019 Annual Action Plan; and,

WHEREAS, during the Public Hearing, the full City Council reviewed the recommended substantial amendment, proposed application and use of funds, concurred that this application for funding is in the interest of the community, approved the project in the PY 2019 Annual Action Plan, and determined that no matching funds are expected to be required by the City of Wichita Falls.

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

The City Council approves a Substantial Amendment to the PY 2019 Annual Action Plan of the 2015-2019 Consolidated Plan of the City of Wichita Falls to receive and administer an additional \$594,749 for a total of \$1,328,013 through the Coronavirus Aid, Relief, And Economic Security Act (CARES Act) in a special allocation from the US Department Of Housing And Urban Development.

PASSED AND APPROVED this the 3<sup>rd</sup> day of August, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

### **Table of Awarded Funds**

#### **CDBG-CV: Outside Agencies**

Arts Council / Art Education Technological & Disinfection Supplies	\$15,000.00
First Step / Disinfection & Sanitation Services and supplies	\$56,947.20
Community Healthcare Center / HVAC & Water Heater Replacement	\$49,075.05
<b>TOTAL CDBG-CV Funds: City Departments</b>	<b>\$121,022.25</b>

#### **CDBG-CV: City Departments**

Grant Administration / Operational & administrative costs for CDBG Program	\$118,949.80
Minor Repair Program / Minor home repair for low-income homeowners	\$40,000.00
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Unreserved / To Be Decided – Neighborhood Revitalization	\$435,040.95
<b>TOTAL CDBG-CV Funds: City Departments</b>	<b>\$633,990.75</b>

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**CITY COUNCIL AGENDA**  
**August 3, 2021**

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**ITEM/SUBJECT:** Resolution approving the PY 2021 Action Plan of the 2020-2024 Consolidated Plan of the City of Wichita Falls to include any and all revisions to the plans approved by the U.S. Department of Housing and Urban Development (HUD), to allocate FY 2021 Community Development Block Grant (CDBG) funds in the amount of \$1,244,016 and FY 2021 HOME Investment Partnership Program (HOME) funds in the amount of \$434,184; authorizing the City Manager to execute HUD Grant Applications and Agreements to implement the approved Plans, to include any and all revisions approved by HUD.

**INITIATING DEPT:** Development Services / Neighborhood Resources

**STRATEGIC GOAL:** (1) Accelerate Economic Growth, (2) Actively Engage & Inform the Public

**STRATEGIC OBJECTIVE:** (1) Revitalize Depressed and Declining Neighborhoods, (2) Strengthen Supportive Partnerships with the Not-For-Profit Community

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**COMMENTARY:**

- March 19, 2021: Social Service Agencies and City departments were sent applications to apply for CDBG funds
- April 2, 2021: Applications due
- June 8, 2021: Council Subcommittee on Outside Agencies met to receive applicant presentations for their proposed use of requested funds and finalize funding recommendations for Council consideration/approval.
- July 13, 2021: First public hearing/forum regarding annual CDBG funding held
- July 20, 2021: Second required public hearing at City Council meeting
- **August 3, 2021:** City Council to consider funding allocation.

During the July 20, 2021, City Council meeting, Council conducted a Public Hearing to receive citizen comments on the proposed PY 2021 Annual Action Plan. This Resolution would approve the PY 2021 Annual Action Plan of the Five-Year Consolidated Plan that allocates \$1,244,016 in FY 2021 Community Development Block Grant (CDBG) funds and \$434,184 in HOME Investment Partnership (HOME) funds for next year's budget. The Resolution will also authorize the City Manager to submit the plan to HUD for review and approval and execute Grant Agreements and Contracts to implement the approved plan, including any and all revisions approved by HUD.

The 2021 Annual Action Plan allocation budget, as recommended by staff and the Council Subcommittee on Outside Agencies, is as follows:

**CDBG: Outside Agencies**

Child Care, Inc. / Child care subsidies for low-income working families	\$130,621.68
Child Care, Inc. / Safety & Security Improvements for Zale Campus	\$61,134.00
Christmas in Action / Home repair for elderly and handicapped owners	\$100,000.00
First Step / ADA Improvements & ADA Ramp Construction	\$40,413.00
Senior Citizens Services of North Texas / Meals on Wheels Program	\$55,980.72
<b>TOTAL CDBG Funds: Outside Agencies</b>	<b>\$388,149.40</b>

**CDBG: City Departments**

Code Enforcement / Demolition and clearance of hazardous structures	\$200,000.00
Code Enforcement / Administration & operational costs	\$80,000.00
CDBG Program Delivery Costs / Minor & Emergency Repair Programs	\$30,000.00
Grant Administration / Operational & administrative costs for CDBG Program	\$248,803.20
Minor Repair Program / Minor home repair for low-income homeowners	\$202,969.87
Emergency Repair Program / Immediate-need home repair for low-income homeowners	\$158,793.53
Parks / Various Park Improvements	\$235,300.00
<b>TOTAL CDBG Funds: City Departments</b>	<b>\$1,155,866.60</b>

**CDBG-CV: Outside Agencies**

Arts Council / Art Education Technological & Disinfection Supplies	\$15,000.00
First Step / Disinfection & Sanitation Services and supplies	\$56,947.20
Community Healthcare Center / HVAC & Water Heater Replacement	\$49,075.05
<b>TOTAL CDBG-CV Funds: City Departments</b>	<b>\$121,022.25</b>

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Minor Repair Program / Minor home repair for low-income homeowners	\$40,000.00
Emergency Repair Program / Immediate-need home repair for low-income homeowners	\$40,000.00
Unreserved / To Be Decided – Neighborhood Revitalization	\$435,040.95
<b>TOTAL CDBG-CV Funds: City Departments</b>	<b>\$633,990.75</b>

**HOME Program**

First-Time Homebuyer Program / Acquisition assistance costs for down payment, closing costs, minor repairs	\$295,638.00
Affordable Housing Program / Closing costs/principle reduction for Habitat home buyers	\$30,000.00
CHDO Set-Aside / Statutory 15% of Entitlement amount	\$65,127.60
HOME Administration / Operational & administrative costs for HOME Program	\$43,418.40
<b>TOTAL HOME Funds</b>	<b>\$434,184</b>

Staff recommends approval of the resolution approving next fiscal year's funding plan as described above and as recommended by the City Council subcommittee.

☒ **Director of Development Services**

☒ **Assistant City Manager**

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**ASSOCIATED INFORMATION:** Resolution, Table of Awarded Funds

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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**Resolution No. \_\_\_\_\_**

**Resolution approving the PY 2021 Action Plan of the Consolidated Plan of the City of Wichita Falls to include any and all revisions to the plans approved by the U.S. Department of Housing and Urban Development (HUD), to allocate FY 2021 Community Development Block Grant (CDBG) funds in the amount of \$1,244,016 and FY 2021 HOME Investment Partnership Program (HOME) funds in the amount of \$434,184; authorizing the City Manager to execute HUD Grant Applications and Agreements to implement the approved Plans, to include any and all revisions approved by HUD**

WHEREAS, the City of Wichita Falls acting in its capacity as a HUD Grantee administers federally-funded programs to benefit the community; and,

WHEREAS, the City Council Subcommittee on Outside Agencies has met with and considered requests from local non-profit organizations and City departments who have applied for funding; and,

WHEREAS, the City Council has held a public hearing to receive citizen input; and,

WHEREAS, during the Public Hearing, the full City Council has considered citizen comments and has reviewed the proposed use of funds,

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

1. The City Council of Wichita Falls, Texas hereby approves and adopts the PY 2021 Annual Action Plan that will provide for developing, implementing, and administering eligible programs and activities through the CDBG and HOME Programs,

2. The City of Wichita Falls, acting in its capacity as a HUD Entitlement Grantee, is authorized to apply for \$1,244,016 in FY 2021 CDBG funding and \$434,184 in FY 2021 HOME funding. Such funding shall be utilized for eligible projects and administrative costs.

3. The City Council authorizes the City Manager, or their designee, to submit the 2021 Annual Action Plan to the U.S. Department of Housing and Urban Development for review and approval, execute any and all amendments, agreements, and other documents necessary to implement the aforementioned Action Plan, to include any and all revisions approved by HUD.



PASSED AND APPROVED this the 3<sup>rd</sup> day of August, 2021.

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M A Y O R

ATTEST:

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City Clerk

## **Table of Awarded Funds**

### **CDBG: Outside Agencies**

Child Care, Inc. / Child care subsidies for low-income working families	\$130,621.68
Child Care, Inc. / Safety & Security Improvements for Zale Campus	\$61,134.00
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<b>TOTAL CDBG Funds: Outside Agencies</b>	<b>\$388,149.40</b>

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<b>TOTAL CDBG Funds: City Departments</b>	<b>\$1,155,866.60</b>

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<b>TOTAL CDBG-CV Funds: City Departments</b>	<b>\$121,022.25</b>

### **CDBG-CV: City Departments**

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Unreserved / To Be Decided – Neighborhood Revitalization	\$435,040.95
<b>TOTAL CDBG-CV Funds: City Departments</b>	<b>\$633,990.75</b>

### **HOME Program**

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Affordable Housing Program / Closing costs/principle reduction for Habitat home buyers	\$30,000.00
CHDO Set-Aside / Statutory 15% of Entitlement amount	\$65,127.60
HOME Administration / Operational & administrative costs for HOME Program	\$43,418.40
<b>TOTAL HOME Funds</b>	<b>\$434,184</b>

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**CITY COUNCIL AGENDA**  
**August 3, 2021**

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**ITEM/SUBJECT:** Resolution authorizing the City Manager to approve Change Order No. 1 for the 2019 Maplewood Extension from Lawrence to McNiel Project to Wilson Contracting in the amount of \$102,233.80.

**INITIATING DEPT:** Public Works

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**STRATEGIC GOAL:** Provide Adequate Infrastructure

**STRATEGIC OBJECTIVE:** Complete Public Improvements Projects

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**COMMENTARY:** On November 19, 2019, bids were opened for the 2019 Maplewood Extension from Lawrence to McNiel Project. This project is now complete and Maplewood Ave has now been widened from a 36-foot street to a 48-foot street between Lawrence Road and McNiel. The project also included right turn lanes at the intersection of Lawrence Road and Maplewood, as well as a traffic signal at the Maplewood and McNiel intersection, and associated work. Wilson Contracting was awarded the contract for the project in the amount of \$1,857,164.00 on December 3, 2019.

The final in-place quantities have been tabulated for this project and has resulted in an increase of \$102,233.80 in the overall project costs. This change order will balance bid quantities to final in-place quantities and facilitate final acceptance of the project.

Staff recommends approval of Change Order No. 1 for the 2019 Maplewood Extension from Lawrence to McNiel Project to allow for final acceptance and close-out of the project.

☒ **Director, Public Works**

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**ASSOCIATED INFORMATION:** Resolution , Change Order No. 1

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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Resolution No. \_\_\_\_\_

**Resolution authorizing the City Manager to approve Change Order No. 1 for the 2019 Maplewood Extension from Lawrence to McNiel Project, for an addition of \$102,233.80**

WHEREAS, the City of Wichita Falls entered a unit price contract with Wilson Contracting for the 2019 Maplewood Extension from Lawrence to McNiel Project with the estimated total cost of \$1,857,164.00; and,

WHEREAS, the City of Wichita Falls has negotiated Change Order No. 1 for an addition of \$102,233.80 for a final contract amount of \$1,959,397.80.

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

The City Manager is authorized to execute Change Order No. 1 for the 2019 Maplewood Extension from Lawrence to McNiel Project in the amount of \$102,233.80.

PASSED AND APPROVED this the 3<sup>rd</sup> day of August, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

<b>CITY OF WICHITA FALLS, TEXAS</b>		<b>CHANGE ORDER NO.:</b>		<b>1 &amp; Final</b>
<b>CONTRACT CHANGE ORDER FORM</b>		<b>DATE:</b>		<b>7/8/2021</b>
		<b>AMOUNT OF CHANGE:</b>		<b>\$ 102,233.80</b>
<b>PROJECT/CONTRACT:</b> 2019 Maplewood Extension from Lawrence to McNeil Project, CWF19-100-12				
TO: Wilson Contracting, this Change Order, after approval by the Owner, (Contractor) will be your authority to make the following changes in the work under your contract:				
<b>Description of Changes</b>	<b>Decrease in Contract</b>	<b>Increase in Contract</b>	<b>Total Change in Contract</b>	
This change order will modify plan quantities to final in-place quantities.				
Item 107-TS, Trench Safety System	\$ -	\$ 11.00	\$ 11.00	
Increase 11 LF at \$1.00 per LF for a final total of 146 LF.				
Item 203.3-P, Remove Pavement	\$ 1,271.70	\$ -	\$(1,271.70)	
Decrease 141.3 SY at \$9.00 per SY for a final total of 3661.7 SY.				
Item 203.3-C, Remove Concrete Channel	\$ -	\$ 715.00	\$ 715.00	
Increase 55 SY at \$13.00 per SY for a final total of 1433 SY.				
Item 301, 8" Subgrade Stabilization	\$ -	\$ 270.00	\$ 270.00	
Increase 30 SY at \$9.00 per SY for a final total of 5190 SY.				
Item 301.3-RIP, 12" Subgrade Recycle-In-Place	\$ -	\$ 1,670.00	\$ 1,670.00	
Increase 85 SY at \$22.00 per SY for a final total of 4654 SY.				
Item 302-B, Type B H/MAC	\$ 7,420.00	\$ -	\$(7,420.00)	
Decrease 53 TONS at \$140.00 per TON for a final total of 0.0 TONS.				
Item 302-D, Type D H/MAC	\$ 12,368.00	\$ -	\$(12,368.00)	
Decrease 77.3 TONS at \$160.00 per TON for a final total of 22.7 TONS.				
Item 303-CC, 6" Concrete Channel	\$ -	\$ 15,375.00	\$ 15,375.00	
Increase 205 SY at \$75.00 per SY for a final total of 1540 SY.				
Item 303-CP, 8" Concrete Pavement	\$ -	\$ 72,148.00	\$ 72,148.00	
Increase 1061 SY at \$68.00 per SY for a final total of 9215 SY.				
Item 305.1, 6" Curb and Gutter	\$ -	\$ 14,872.00	\$ 14,872.00	
Increase 743.6 LF at \$20.00 per LF for a final total of 843.6 LF.				
Item 305.1-MC, 6" Monolithic Curb	\$ -	\$ 2,025.00	\$ 2,025.00	
Increase 135 LF at \$15.00 per LF for a final total of 3158 LF.				
Item 305.2-DA, 6" Concrete Drive Approach	\$ -	\$ 1,254.50	\$ 1,254.50	
Increase 19.3 SY at \$65.00 per SY for a final total of 640.3 SY.				
Item 305.2-SW, 4" Concrete Sidewalk	\$ 3,700.00	\$ -	\$(3,700.00)	
Decrease 74 SY at \$50.00 per SY for a final total of 2336 SY.				

Item 305.2-VG, 8" Concrete Valley Gutter	\$ -	\$ 4,410.00	\$ 4,410.00
Increase 58.8 SY at \$75.00 per SY for a final total of 268.8 SY.			
Item 403-M, Milling	\$ 1,720.00	\$ -	\$ (1,720.00)
Decrease 430 SY at \$4.00 per SY for a final total of 170 SY.			
Item 508.3, Remove and Replace 24" RCP Storm Drain	\$ -	\$ 2,310.00	\$ 2,310.00
Increase 11 LF at \$210.00 per LF for a final total of 146 LF.			
Item 801.4-4, Install 4' Chainlink Fence	\$ -	\$ 990.00	\$ 990.00
Increase 33 LF at \$30.00 per LF for a final total of 1650 LF.			
Item 801.4-4R, Remove 4' Chainlink Fence	\$ 330.00	\$ -	\$ (330.00)
Decrease 66 LF at \$5.00 per LF for a final total of 1256 LF.			
Item 802, Sidewalk Retaining Wall	\$ -	\$ 30.00	\$ 30.00
Increase 1 LF at \$30.00 per LF for a final total of 173 LF.			
Item 804-12WS, 12" White Solid Striping (100 Mil Thick)	\$ -	\$ 346.50	\$ 346.50
Increase 56 LF at \$5.25 per LF for a final total of 254 LF.			
Item 804-24WS, 24" White Solid Striping (Prefab Type "C")	\$ -	\$ 841.50	\$ 841.50
Increase 51 LF at \$16.50 per LF for a final total of 627 LF.			
Item 805-SCH40, 2" PVC Sch40 Conduit (Trenched)	\$ -	\$ 7,470.00	\$ 7,470.00
Increase 166 LF at \$45.00 per LF for a final total of 2748 LF.			
Item 805-SCH80, 2" PVC Sch80 Conduit (Bored)	\$ -	\$ 6,825.00	\$ 6,825.00
Increase 195 LF at \$35.00 per LF for a final total of 440 LF.			
ADD Item 703, Steel Bus Stop Shelter	\$ 2,720.00	\$ -	\$ (2,720.00)
*Damage to existing shelter			
Decrease 1 EA at \$2720.00 per EA for a final total of 0 EA.			
<b>TOTAL</b>	<b>\$ 29,529.70</b>	<b>\$ 131,763.50</b>	<b>\$ 102,233.80</b>
<b>AMOUNT OF ORIGINAL CONTRACT:</b>			<b>\$ 1,857,164.00</b>
<b>TOTAL AMOUNT OF THIS CHANGE ORDER:</b>			<b>\$ 102,233.80</b>
<b>TOTAL AMOUNT OF PREVIOUS CHANGE ORDERS:</b>			<b>\$ -</b>
<b>CONTRACT AMOUNT TO DATE:</b>			<b>\$ 1,959,397.80</b>
The completion time under your contract will be extended by (115) days because of this change order making the completion date May 15, 2021, with 55 weather days added.			
Approved By Owner:	Accepted By Contractor:	Recommended By Arch/Eng: (if applicable)	
By: _____	By: <u>Brandi Wilson</u>	By: <u>T. R. Smith, RE.</u>	
Title: <u>City Manager</u>	Title: <u>President</u>	Title: <u>City Engineer</u>	
Date: _____	Date: <u>7-8-2021</u>	Date: <u>7-13-21</u>	

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**CITY COUNCIL AGENDA**  
**August 3, 2021**

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**ITEM/SUBJECT:** A Resolution of the City Council of the City of Wichita Falls, Texas, approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the Company's 2021 Rate Review Mechanism Filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attached exhibit establishing a benchmark for pensions and retiree medical benefits; approving an attached exhibit regarding amortization of regulatory liability; requiring the company to reimburse ACSC's reasonable ratemaking expenses; determining that this resolution was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this resolution to the company and the ACSC's legal counsel.

**INITIATING DEPT:** Legal

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**STRATEGIC GOAL:** Efficiently Deliver City Services

**STRATEGIC OBJECTIVE:** Practice effective governance

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**COMMENTARY:** The City, along with 171 other Mid-Texas cities served by Atmos Energy Corporation, Mid-Tex Division ("Atmos Mid-Tex" or "Company"), is a member of the Atmos Cities Steering Committee ("ACSC"). In 2007, ACSC and Atmos Mid-Tex settled a rate application filed by the Company pursuant to Section 104.301 of the Texas Utilities Code for an interim rate adjustment commonly referred to as a GRIP filing (arising out of the Gas Reliability Infrastructure Program legislation). That settlement created a substitute rate review process, referred to as Rate Review Mechanism ("RRM"), as a substitute for future filings under the GRIP statute.

Since 2007, there have been several modifications to the original RRM Tariff. The most recent iteration of an RRM Tariff was reflected in an ordinance adopted by ACSC members in 2018. On or about April 1, 2021, the Company filed a rate request pursuant to the RRM Tariff adopted by ACSC members. The Company claimed that its cost-of-service in a test year ending December 31, 2020, entitled it to additional system-wide revenues of \$43.4 million.

Application of the standards set forth in ACSC's RRM Tariff reduces the Company's request to \$40.5 million, \$29.3 million of which would be applicable to ACSC members.

ACSC's consultants concluded that the system-wide deficiency under the RRM regime should be \$22.34 million instead of the claimed \$40.5 million. The amount of the \$22.34 million deficiency applicable to ACSC members would be \$16.8 million.

After the Company reviewed ACSC's consultants' report, ACSC's Executive Committee and the Company negotiated a settlement whereby the Company would receive an increase of \$22.78 million from ACSC Cities, but with a two-month delay in the Effective Date until December 1, 2021. This should save ACSC cities approximately \$3.8 million.

The Executive Committee recommends a settlement at \$22.78 million. The Effective Date for new rates is December 1, 2021.

☒ **City Attorney**

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**ASSOCIATED INFORMATION:** Resolution

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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Resolution No. \_\_\_\_\_

**A Resolution of the City Council of the City of Wichita Falls, Texas, approving a negotiated settlement between the Atmos Cities Steering Committee (“ACSC”) and Atmos Energy Corp., Mid-Tex Division regarding the Company’s 2021 Rate Review Mechanism Filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attached exhibit establishing a benchmark for pensions and retiree medical benefits; approving an attached exhibit regarding amortization of regulatory liability; requiring the company to reimburse ACSC’s reasonable ratemaking expenses; determining that this resolution was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this resolution to the company and the ACSC’s legal counsel.**

WHEREAS, the City of Wichita Falls, Texas, Texas (“City”) is a gas utility customer of Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”), and a regulatory authority with an interest in the rates, charges, and services of Atmos Mid-Tex; and

WHEREAS, the City is a member of the Atmos Cities Steering Committee (“ACSC”), a coalition of similarly-situated cities served by Atmos Mid-Tex (“ACSC Cities”) that have joined together to facilitate the review of, and response to, natural gas issues affecting rates charged in the Atmos Mid-Tex service area; and

WHEREAS, ACSC and the Company worked collaboratively to develop a Rate Review Mechanism (“RRM”) tariff that allows for an expedited rate review process by ACSC Cities as a substitute to the Gas Reliability Infrastructure Program (“GRIP”) process instituted by the Legislature, and that will establish rates for the ACSC Cities based on the system-wide cost of serving the Atmos Mid-Tex Division; and

WHEREAS, the current RRM tariff was adopted by the City in a rate ordinance in 2018; and

WHEREAS, on about April 1, 2021, Atmos Mid-Tex filed its 2021 RRM rate request with ACSC Cities based on a test year ending December 31, 2020; and

WHEREAS, ACSC coordinated its review of the Atmos Mid-Tex 2021 RRM filing through its Executive Committee, assisted by ACSC's attorneys and consultants, to resolve issues identified in the Company's RRM filing; and

WHEREAS, the Executive Committee, as well as ACSC's counsel and consultants, recommend that ACSC Cities approve an increase in base rates for Atmos Mid-Tex of \$22.78 million applicable to ACSC Cities with an Effective Date of December 1, 2021; and

WHEREAS, ACSC agrees that Atmos' plant-in-service is reasonable; and

WHEREAS, with the exception of approved plant-in-service, ACSC is not foreclosed from future reasonableness evaluation of costs associated with incidents related to gas leaks; and

WHEREAS, the two month delayed Effective Date from October 1 to December 1 will save ACSC ratepayers approximately \$3.8 million off new rates imposed by the attached tariffs (**Exhibit A**); and

WHEREAS, the attached tariffs (Exhibit A) implementing new rates are consistent with the recommendation of the ACSC Executive Committee, are agreed to by the Company, and are just, reasonable, and in the public interest; and

WHEREAS, the settlement agreement sets a new benchmark for pensions and retiree medical benefits (**Exhibit B**); and

WHEREAS, the settlement agreement establishes an amortization schedule for regulatory liability prepared by Atmos Mid-Tex (**Exhibit C**); and

WHEREAS, the RRM Tariff contemplates reimbursement of ACSC's reasonable expenses associated with RRM applications.

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

**Section 1.** The findings set forth in this Resolution are hereby in all things approved.

**Section 2.** Without prejudice to future litigation of any issue identified by ACSC, the City Council finds that the settled amount of an increase in revenues of \$22.78 million for ACSC Cities represents a comprehensive settlement of gas utility rate issues affecting the rates, operations, and services offered by Atmos Mid-Tex within the municipal limits arising from Atmos Mid-Tex's 2021 RRM filing, is in the public interest, and is consistent with the City's authority under Section 103.001 of the Texas Utilities Code.

**Section 3.** Despite finding Atmos Mid-Tex's plant-in-service to be reasonable, ACSC is not foreclosed in future cases from evaluating the reasonableness of costs associated with incidents involving leaks of natural gas.

**Section 4.** The existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable. The new tariffs attached hereto and incorporated herein as Exhibit A, are just and reasonable, and are designed to allow Atmos Mid-Tex to recover annually an additional \$22.78 million from customers in ACSC Cities, over the amount allowed under currently approved rates. Such tariffs are hereby adopted.

**Section 5.** The ratemaking treatment for pensions and retiree medical benefits in Atmos Mid-Tex's next RRM filing shall be as set forth on Exhibit B, attached hereto and incorporated herein.

**Section 6.** Subject to any future settlement or decision regarding the balance of Excess Deferred Income Tax to be refunded to ratepayers, the amortization of regulatory liability shall be consistent with the schedule found in Exhibit C, attached hereto and incorporated herein.

**Section 7.** Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC in processing the Company's 2021 RRM filing.

**Section 8.** To the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Resolution, it is hereby repealed.

**Section 9.** The meeting at which this Resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**Section 10.** If any one or more sections or clauses of this Resolution is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Resolution, and the remaining provisions of the Resolution shall be interpreted as if the offending section or clause never existed.

**Section 11.** Consistent with the City Ordinance that established the RRM process, this Resolution shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after December 1, 2021.

**Section 12.** A copy of this Resolution shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs Mid-Tex Division, Atmos

Energy Corporation, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Thomas Brocato, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

PASSED AND APPROVED this the 3<sup>rd</sup> day of August, 2021.

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M      A      Y      O      R

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney

**EXHIBIT A**  
**2021 RRM**  
**Proof of Revenues**

**ATMOS ENERGY CORP., MID-TEX DIVISION**  
**RRM CITIES RATE REVIEW MECHANISM**  
**PROOF OF REVENUES - RRM CITIES**  
**TEST YEAR ENDING DECEMBER 31, 2020**

Line No.	Customer Class (a)	Current (b)	Proposed (c)	Bills (d)	Ccf/MmBtu (e)	Current Revenues (f)	Proposed Revenues (g)	Increase (h)
1	<b>Residential</b>							
2	Customer Charge	\$ 20.25	\$ 20.85	13,861,632		\$ 280,698,048	\$ 289,015,027	\$ 8,316,979
3	Consumption Charge	0.26651	0.27979		627,298,034	167,181,199	175,511,717	\$ 8,330,518
4	Revenue Related Taxes					30,398,805	31,528,717	
5	Total Class Revenue					<u>\$ 478,278,052</u>	<u>\$ 496,055,461</u>	<u>\$ 17,777,409</u>
6								
7	<b>Commercial</b>							
8	Customer Charge	\$ 54.50	\$ 56.50	1,094,352		\$ 59,642,184	\$ 61,830,888	\$ 2,188,704
9	Consumption Charge	0.11728	0.12263		363,850,875	42,672,431	44,619,033	\$ 1,946,602
10	Revenue Related Taxes					6,944,376	7,225,051	
11	Total Class Revenue					<u>\$ 109,258,991</u>	<u>\$ 113,674,972</u>	<u>\$ 4,415,981</u>
12								
13	<b>Industrial &amp; Transportation</b>							
14	Customer Charge	\$ 1,014.50	\$ 1,054.75	7,056		\$ 7,158,312	\$ 7,442,316	\$ 284,004
15	Consumption Charge Tier 1	\$ 0.4157	\$ 0.4330		7,479,741	3,109,328	3,238,728	\$ 129,400
16	Consumption Charge Tier 2	\$ 0.3044	\$ 0.3171		8,282,846	2,521,298	2,626,490	\$ 105,192
17	Consumption Charge Tier 3	\$ 0.0653	\$ 0.0680		13,018,926	850,136	885,287	\$ 35,151
18	Revenue Related Taxes					925,722	963,306	
19	Total Class Revenue					<u>\$ 14,564,796</u>	<u>\$ 15,156,127</u>	<u>\$ 591,331</u>
20								
21	<b>Total Excluding Other Revenue</b>					<u>\$ 602,101,840</u>	<u>\$ 624,886,561</u>	<u>\$ 22,784,721</u>
22								\$ 21,336,550
23								
24	<b>Revenue Related Tax Factor</b>	6.7873%						

## Bill Impact

ATMOS ENERGY CORP., MID-TEX DIVISION  
AVERAGE BILL COMPARISON - BASE RATES  
TEST YEAR ENDING DECEMBER 31, 2020

Line No.						Current	Proposed	Change
1	<b>Rate R @ 45.2 Ccf</b>							
2	Customer charge				\$ 20.25			
3	Consumption charge	45.2	CCF	X \$ 0.26651 =	12.05			
4	Rider GCR Part A	45.2	CCF	X \$ 0.16000 =	7.23			
5	Rider GCR Part B	45.2	CCF	X \$ 0.33320 =	15.06			
6	Subtotal				\$ 54.59			
7	Rider FF & Rider TAX	\$ 54.59		X 0.06787 =	3.71			
8	Total				\$ 58.30			
9								
10	Customer charge					\$ 20.85		
11	Consumption charge	45.2	CCF	X \$ 0.27979 =	12.65			
12	Rider GCR Part A	45.2	CCF	X \$ 0.16000 =	7.23			
13	Rider GCR Part B	45.2	CCF	X \$ 0.33320 =	15.06			
14	Subtotal				\$ 55.79			
15	Rider FF & Rider TAX	\$ 55.79		X 0.06787 =	3.79			
16	Total				\$ 59.58	\$	1.28	
17								2.20%
18								
19	<b>Rate C @ 332.5 Ccf</b>							
20	Customer charge				\$ 54.50			
21	Consumption charge	332.5	CCF	X \$ 0.11728 =	38.99			
22	Rider GCR Part A	332.5	CCF	X \$ 0.16000 =	53.20			
23	Rider GCR Part B	332.5	CCF	X \$ 0.26321 =	87.51			
24	Subtotal				\$ 234.20			
25	Rider FF & Rider TAX	\$ 234.20		X 0.06787 =	15.90			
26	Total				\$ 250.10			
27								
28	Customer charge					\$ 56.50		
29	Consumption charge	332.5	CCF	X \$ 0.12263 =	40.77			
30	Rider GCR Part A	332.5	CCF	X \$ 0.16000 =	53.20			
31	Rider GCR Part B	332.5	CCF	X \$ 0.26321 =	87.51			
32	Subtotal				\$ 237.98			
33	Rider FF & Rider TAX	\$ 237.98		X 0.06787 =	16.15			
34	Total				\$ 254.13	\$	4.03	
35								1.61%

# **EXHIBIT B** **Bill Impact**

36	<b>Rate I @ 4079 MMBTU</b>				<b>Current</b>	<b>Proposed</b>	<b>Change</b>
37	Customer charge				\$ 1,014.50		
38	Consumption charge	1,500	MMBTU	X \$ 0.4157 =	623.55		
39	Consumption charge	2,579	MMBTU	X \$ 0.3044 =	785.05		
40	Consumption charge	0	MMBTU	X \$ 0.0653 =	-		
41	Rider GCR Part A	4,079	MMBTU	X \$ 1.5625 =	6,373.46		
42	Rider GCR Part B	4,079	MMBTU	X \$ 0.5380 =	2,194.58		
43	Subtotal				\$ 10,991.14		
44	Rider FF & Rider TAX	\$ 10,991.14		X 0.06787 =	746.00		
45	Total				<u>\$ 11,737.14</u>		
46							
47	Customer charge					\$ 1,054.75	
48	Consumption charge	1,500	MMBTU	X \$ 0.4330 =		649.50	
49	Consumption charge	2,579	MMBTU	X \$ 0.3171 =		817.80	
50	Consumption charge	0	MMBTU	X \$ 0.0680 =		-	
51	Rider GCR Part A	4,079	MMBTU	X \$ 1.5625 =		6,373.46	
52	Rider GCR Part B	4,079	MMBTU	X \$ 0.5380 =		2,194.58	
53	Subtotal					\$ 11,090.09	
54	Rider FF & Rider TAX	\$ 11,090.09		X 0.06787 =		752.72	
55	Total					<u>\$ 11,842.81</u>	\$ 105.67
56							0.90%
57	<b>Rate T @ 4079 MMBTU</b>				<b>Current</b>	<b>Proposed</b>	<b>Change</b>
58	Customer charge				\$ 1,014.50		
59	Consumption charge	1,500	MMBTU	X \$ 0.4157 =	623.55		
60	Consumption charge	2,579	MMBTU	X \$ 0.3044 =	785.05		
61	Consumption charge	0	MMBTU	X \$ 0.0653 =	-		
62	Rider GCR Part B	4,079	MMBTU	X \$ 0.5380 =	2,194.58		
63	Subtotal				\$ 4,617.68		
64	Rider FF & Rider TAX	\$ 4,617.68		X 0.06787 =	313.41		
65	Total				<u>\$ 4,931.09</u>		
66							
67	Customer charge					\$ 1,054.75	
68	Consumption charge	1,500	MMBTU	X \$ 0.4330 =		649.50	
69	Consumption charge	2,579	MMBTU	X \$ 0.3171 =		817.80	
70	Consumption charge	0	MMBTU	X \$ 0.0680 =		-	
71	Rider GCR Part B	4,079	MMBTU	X \$ 0.5380 =		2,194.58	
72	Subtotal					\$ 4,716.63	
73	Rider FF & Rider TAX	\$ 4,716.63		X 0.06787 =		320.13	
74	Total					<u>\$ 5,036.76</u>	\$ 105.67
75							2.14%



**EXHIBIT C**

RRM Monthly Savings Over GRIP and DARE Rates

**ATMOS ENERGY CORP., MID-TEX DIVISION  
RESIDENTIAL AVERAGE BILL COMPARISON  
(EXCLUDING GAS COSTS)**

	<b>ACSC Settled</b>	<b>DARR Settled</b>	<b>ATM Filing</b>	<b>ENVIRONS Filing</b>
Customer Charge	\$20.85	\$23.80	\$27.68	\$25.90
Monthly Ccf [1]	45.2	52.7	45.2	45.2
Consumption Charge	\$0.27979	\$0.19526	\$0.14846	\$0.18653
Average Monthly Bill	\$33.50	\$34.09	\$34.39	\$34.33
		<b>-\$0.60</b>	<b>-\$0.89</b>	<b>-\$0.83</b>

[1] Recognizes that average normal usage for Dallas residential customers is greater than Mid-Tex average.

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**CITY COUNCIL AGENDA**  
**August 3, 2021**

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**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 \$100,000 to The Wichita County Heritage Society to assist in the renovations of the Kell House Museum at 900 Bluff Street.

**INITIATING DEPT:** City Manager's Office

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**STRATEGIC GOAL:** Redevelop Downtown

**STRATEGIC OBJECTIVE:** Pursue Public/Private Partnerships

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**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

- December 2017 – Type B Corporation Board and City Council approve project at a cost not to exceed \$100,000;
- January 1, 2019 – Funding agreement expires;
- July 19, 2021 – Corporation Board conducted public hearing and approved request;
- August 3, 2021 – City Council to consider ratifying budget amendment facilitating project.

The applicant requests funding in an amount not to exceed \$100,000 to assist in the long-delayed project to renovate the Kell House Museum. The Type B Corporation Board and City Council previously approved funding for the project; however, such expired as fundraising and the pandemic has delayed the initiation of related work (see attached letter).

The Society's executive director, Delores Culley, will be at the meeting to answer any questions the City Council may have.

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

☒ **Assistant City Manager**

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**ASSOCIATED INFORMATION:** Resolution

☒ **Budget Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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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 \$100,000 to The Wichita County Heritage Society to assist in the renovation of the Kell House Museum at 900 Bluff Street**

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 July 19, 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 **\$100,000** as described below and in said corporation's agenda, is approved:

**An amount up to \$100,000 to The Wichita County Heritage Society to assist in the renovation of the Kell House Museum at 900 Bluff Street**

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 3<sup>rd</sup> day of August, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

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**Wichita Falls Type B Sales Tax Corporation**  
**July 19, 2021**

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**ITEM/SUBJECT:** Public hearing and consideration of a funding request from The Wichita County Heritage Society related to the renovation of the Kell House Museum at 900 Bluff Street.

**ATTACHMENTS:** (1) Letter of request, (2) previous agreement from 2017

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**STRATEGIC GOAL:** Redevelop Downtown

**STRATEGIC OBJECTIVE:** Enhance Focus on Culture, Arts, and Entertainment Venues

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**Staff Summary:**

Timeline

- December 2017 – Type B Corporation Board and City Council approve project at a cost not to exceed \$100,000;
- January 1, 2019 – Funding agreement expires;
- July 19, 2021 – Corporation Board to consider funding request;
- August 3 or 17, 2021 – If request approved by Board, City Council to consider ratifying budget amendment facilitating project.

The applicant requests funding in an amount not to exceed \$100,000 to assist in the long-delayed project to renovate the Kell House Museum. The Board and City Council previously approved funding for the project; however, such expired as fundraising and the pandemic has delayed the initiation of related work (see attached letter).

The Society's executive director, Delores Culley, will be at the meeting to present the request and answer any questions the Board may have.

City staff recommends the Board open the public hearing and consider the request.



June 24, 2021

Mr. Paul Menzies  
Assistant City Manager  
City of Wichita Falls  
1300 7<sup>th</sup> Street  
Wichita Falls, Texas 76301

Re: Wichita Falls 4B Sales Tax Grant

Dear Mr. Menzies:

In December, 2017 The Wichita County Heritage Society was issued a grant for the Kell House Revitalization Project in the amount of \$100,000.00.

By the beginning of 2020 we had raised over half of the funding and we securing bids for the project. An than, like everything else in 2020, things came to a standstill. We are finally at the point of putting up scaffolding and beginning this long awaited revitalization of the Kell House Museum.

The purpose of this letter is to request an extension on the funding. It was originally set to expire in December of 2020. Once we begin the work it should be completed by Christmas, just in time for Santa House.

Please let me know if you require any additional information regarding this matter. I look forward to hearing from you soon.

Sincerely,  
  
Delores A. Culley  
Executive Director

*"Saving the Past for the Future"*

900 Bluff Street • Wichita Falls, Texas 76301 • PHONE (940) 723-0623 • FAX (940) 723-6592 • [wichita-heritage.org](http://wichita-heritage.org)

**Performance Agreement between the Wichita Falls 4B Sales Tax Corporation  
and the Wichita County Heritage Society for the Kell House Museum  
for Incentives at 900 Bluff Street in Wichita Falls, Texas**

This Performance Agreement ("Agreement") is entered into on 12-21-2017, 2017, by and between the **Wichita Falls 4B Sales Tax Corporation** ("WF4BSTC"), a Texas development corporation authorized under the Texas Development Corporation Act of 1979, Section 4A, ("Act"), and the **Wichita County Heritage Society for the Kell House Museum** ("Company").

Whereas, Company seeks to improve 900 Bluff Street in Wichita Falls, Texas; and,

Whereas, Company estimates it will complete its project by October 15, 2019; and,

Whereas, the WF4BSTC finds that the project is a museum and tourist facility and will promote or develop new or expanded business enterprises downtown; and,

Whereas, Company needs assistance in paying for interior and exterior improvements.

Now, therefore, be it resolved, subject to the approval of the Wichita Falls City Council and the execution of subsequent agreements to memorialize and obligate funds provided hereunder in the form to be provided by the WF4BSTC, the parties agree as follows:

**Incentives:**

<b><u>Grant</u></b>	<b><u>WF4BSTC's Total Maximum Obligation: \$100,000</u></b>
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The WF4BSTC agrees to provide to Company up to \$100,000 to assist in interior and exterior repairs to the Kell House Museum.

**Documentation.** Prior to receiving payment from the WF4BSTC pursuant to this Agreement, Company shall submit documentation as required by the WF4BSTC to verify and document such request, including forgivable notes covering the amounts provided hereunder providing the following minimum provisions and other provisions required by the WF4BSTC to adequately secure and document payments.

**Grant Disbursements:** The WF4BSTC may disburse the amount a grant to Company upon receipt of documentation that Company has raised \$750,000 for the Kell House project from other sources. Such disbursements shall not exceed \$100,000. In regard to such disbursement, the WF4BSTC will provide disbursement subject to such supporting documentation as required by the Deputy City Manager of the City of Wichita Falls.

**General Conditions:**

1. **Maintenance of Operations.** The WF4BSTC intends for any incentives to be used to ensure that Company continues to operate 900 Bluff Street as a museum in Wichita Falls.

2. **Use of Proceeds.** Company agrees to use all of the funds received from WF4BSTC pursuant to this Agreement for (or as reimbursement for) the "costs" (as that term is defined in Tex. Loc. Gov't Code Ann. § 501.152, as of the date of this Agreement) of this project related to interior and exterior repairs of the museum.

3. **Compliance with Tex. Gov't Code § 2264.001.** In accordance with Tex. Gov't Code §§ 2264.001 through 2264.101, Company does not and will not knowingly employ an undocumented worker during the term of this Agreement in violation of Texas or federal law. If, during the term of this Agreement, Company or a branch, division, or department of Company is convicted of a violation under 8 U.S.C. Section 1324a(f), Company shall repay the entire amount of the public subsidy with the addition of interest at the rate of 5% simple annual interest as required by Tex. Gov't Code § 2264.053, not later than the 120th day after the date the WF4BSTC notifies the business of the violation.

4. **No Waiver.** No delay or omission by WF4BSTC in exercising any right that may accrue to it pursuant to this Agreement will operate as a waiver of any other WF4BSTC right that may accrue pursuant hereto.

5. **Disputes.** In the event of a dispute, (1) neither party will be entitled to attorney's fees incurred or paid in the enforcement of any provision of this Agreement, regardless of any provision authorizing attorney's fees in Texas Local Gov't Code § 271.153(a)(3) or other statute, and (2) sole venue for any action based on this Agreement or promise ancillary thereto shall be in Wichita County, Texas.

6. The WF4BSTC shall not be the guarantor of Company's success, and shall not be liable for any failure to provide incentives not specifically set forth in this Agreement. Any representations by WF4BSTC or the City concerning the availability of incentives hereunder are subject to the approval of the governing bodies entrusted by law to issue said incentives. Company certifies the truth of the representations by its representatives to the WF4BSTC and the City. Company agrees to release the WF4BSTC and the City from any and all claims, suits, and actions for damages, costs, and expenses to persons or property (collectively "Claims") that may arise out of, or be occasioned by or from any act, error or omission of the WF4BSTC and the City in the execution or performance of this contract. The aforementioned release does not encompass Claims attributable to the negligence or willful misconduct of the WF4BSTC and/or the City.

7. **Term.** The Term of this Agreement shall be from its execution until the earlier of:

- a. **December 31, 2018,** or
- b. This agreement automatically terminates on January 1, 2019 if Company makes no request for disbursements prior to this date.

8. **Default.** During the Term of this Agreement, Company shall promptly notify WF4BSTC if Company learns of the occurrence of: (i) any event which constitutes an Event of Default; or (ii) any legal, judicial or regulatory proceedings affecting Company and/or the Facility in which the amount involved is in excess of \$50,000 and is not covered by insurance.

9. **Indemnity.** Company shall indemnify, save and hold harmless WF4BSTC and the City of Wichita Falls and their respective officers, directors, employees, representatives and agents (collectively, the "Indemnified Parties") from and against: (i) any and all claims, demands, actions, or causes of action that are asserted against any Indemnified Party by any person or entity if the claim, demand, action or cause of action directly or indirectly relates to a claim, demand, action, or cause of action attributable to the acts or omissions of Company, any affiliate of Company or any officer, employee or partner of Company; (ii) any and all claims, demands, actions or causes of action that are asserted against any Indemnified Party if the claim, demand, action or cause of action directly or

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indirectly relates to funds received by Company pursuant to this agreement, Company's use of the proceeds of funds received pursuant to this agreement or the relationship of Company and WF4BSTC pursuant to this agreement; and (iii) any and all liabilities, losses, costs or expenses (including attorneys' fees and disbursements) that any Indemnified Party suffers or incurs as a result of any of the foregoing; provided, however, that Company shall have no obligation pursuant to this provision to any Indemnified Party with respect to any of the foregoing arising out of the negligence or willful misconduct of such Indemnified Party. To the extent necessary to provide the Indemnified Parties full protection in accordance with the terms of this Section, the indemnity provisions set forth herein shall survive the termination of this Agreement.

**10. Events of Default.** Each of the following events shall be considered an Event of Default of this agreement:

- a. If any representation or warranty by Company set forth herein or in any certificate, report, request or other document furnished pursuant hereto is incorrect in any material respect as of the date when made or deemed made; or
- b. The failure of Company in its due observance and performance of any of the covenants or agreements set forth in this agreement or any of documents associated with this agreement and the continuation of such failure for a period of 30 days after written notice thereof from WF4BSTC; or
- c. If an involuntary case or other proceeding shall be commenced against Company that seeks liquidation, reorganization or other relief pursuant to any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or them or any substantial portion of its or their property, and if such involuntary case or other proceeding shall remain undismissed or unstayed for a period of 30 days; or if an order for relief against Company shall be entered in any such case under the Federal Bankruptcy Code; or
- d. If Company shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or if Company shall make a general assignment for the benefit of creditors or shall fail generally or shall admit in writing its inability to pay its debts as they become due; or
- e. If Company shall fail within 30 days to pay, bond or otherwise discharge any judgment or order for the payment of money in excess of \$50,000 that is not otherwise being satisfied in accordance with its terms and is not stayed on appeal or otherwise being appropriately contested in good faith; or
- f. If there shall be a dissolution of Company or a cessation of business operations at the Facility; or



- g. If the Company is determined by WF4BSTC to be continually or repeatedly violating a City ordinance or state law or regulation related to the operation of the Facility.

**11. Remedies.** Following the occurrence of any Event of Default described above during the Term of this Agreement, the obligations of WF4BSTC to the Company shall terminate and the entire amount of the funds provided by WF4BSTC to the Company within one year prior to the default shall become immediately due and payable to the WF4BSTC if Company fails to cure the Event of Default within ten (10) days of receipt of written Notice of Default (the "Notice Period"). Following the occurrence of any other Event of Default specified in this section, WF4BSTC may by written notice to Company and if Company fails to cure the Event of Default within ten (10) days of receipt of written Notice of Default: (i) declare the entire amount of any obligation to the WF4BSTC then outstanding, together with interest (if any) then accrued thereon, to be immediately due and payable to the WF4BSTC, and/or (ii) terminate all obligations of WF4BSTC to the Company unless and until WF4BSTC shall reinstate the same in writing; and/or (iii) reduce any claim to judgment; and/or (iv) without notice of default or demand pursue and enforce any of WF4BSTC's rights and remedies pursuant to this Agreement or any document ancillary to it.

**12. Further approvals required.** Any representations by WF4BSTC or the City of Wichita Falls (or any representatives of the foregoing) concerning the availability of incentives hereunder are subject to the approval of the governing bodies entrusted by law to issue said incentives.

**13.** This agreement and said attachments, if any, may only be amended, supplemented, modified or canceled by a duly executed written instrument agreed to by both parties.

**14.** Company's maximum aggregate liability under this Agreement to WF4BSTC, the City of Wichita Falls, any third party, and/or any Indemnified Party identified in Section 9 shall not exceed the amount of funds provided to Company pursuant to this Agreement.

**15. Assignability.** This agreement is not assignable by Company.

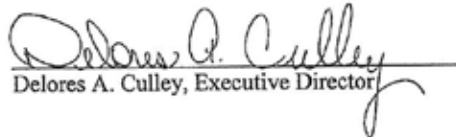
**16. Governmental Function.** Company acknowledges and agrees that WF4BSTC's grant of money to Company is a governmental function that benefits the Wichita Falls community as a whole.

**Wichita Falls 4B Sales Tax Corporation**



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

**Wichita County Heritage Society**



Delores A. Culley, Executive Director

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## CITY COUNCIL AGENDA August 3, 2021

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**ITEM/SUBJECT:** Resolution approving the programs and expenditures of the Wichita Falls Economic Development Corporation (WFEDC) by amending the existing incentive agreement of up to \$2,800,000 with Panda Biotech related to their proposed operation out of the former Delphi Plant on I-44.

**INITIATING DEPT:** City Manager's Office

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**STRATEGIC GOAL:** Accelerate Economic Growth

**STRATEGIC OBJECTIVE:** Aggressively Pursue High-Value Businesses

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**COMMENTARY:**

Timeline

- June 18, 2020 – WFEDC Board approves original \$2.8M budget amendment and incentive agreement;
- July 7, 2020 – City Council ratifies budget amendment;
- January 26, 2021 – At the request of Panda Biotech, WFEDC Board considers and approves further modifications to incentive agreement;
- February 2, 2021 – City Council approves modified agreement.
- February 8, 2021 - \$1.0M loan provided to Panda Biotech from WFEDC.
- July 2021 – Panda Biotech purchases former Delphi facility on I-44.
- July 15, 2021 – At the request of Panda Biotech, WFEDC Board considers and approves an extension until December 31, 2021 for the repayment by Panda to the WFEDC of the previously approved and distributed \$1.0M loan.
- **August 3, 2021** – City Council to consider modification to agreement.
- August 6, 2021 – Date for which \$1.0M loan repayment due based on current agreement.

Summary

The current agreement approved by the WFEDC and City Council earlier this year is an up to \$2,800,000 commitment as follows:

- \$1.0M loan subject to paying the loan back to the WFEDC upon either (1) receipt by Panda of the proceeds of their requested Texas Economic Development Bonds, or (2) within six (6) months from the date of loan distribution, whichever comes first; and
- A total incentive for job creation and employee relocation of \$1,650,000, subject to (1) execution of payment in lieu of taxes agreement (PILOT) with the City, and (2) payback to the City of the \$1.0M loan; and
- \$150,000 for rail spur improvements.

Collateral for the \$1M WFEDC loan is in place and includes Panda-owned equipment purchased for use at the proposed Wichita Falls facility. The extension of repayment until the end of calendar 2021 would provide additional time for Panda to solidify their state bond financing request and/or private capitalization related to the new Wichita Falls facility.

City Council approval of the amendment is required as such represents a material change in the incentive agreement. Approval of the request by the City Council does not affect the remainder of the existing agreement, nor affects the existing budget for this project of up to \$2,800,000.

Economic Development staff from the Chamber of Commerce will be in attendance at the meeting to present the request and answer any questions.

Staff and the WFEDC Board recommend approval of this resolution.

☒ **Assistant City Manager**

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**ASSOCIATED INFORMATION:** Resolution

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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Resolution No. \_\_\_\_\_

**Resolution approving the programs and expenditures of the Wichita Falls Economic Development Corporation (WFEDC) by amending the existing incentive agreement with Panda Biotech of up to \$2,800,000 related to their proposed purchase and operation out of the former Delphi Plant on I-44**

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 July 15, 2021, the WFEDC 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 Economic Development Corporation's approval and funding of the following programs and expenditures as described below and in said corporation's agenda, are approved:

**Panda Biotech Project:**

- Amendment to the existing agreement between the WFEDC and Panda Biotech to extend the repayment deadline of the \$1.0M loan provided by the WFEDC to Panda Biotech until no later than December 31, 2021.

2. All other terms of the agreement approved by the WFEDC on January 26, 2021, and the City Council on February 2, 2021 remain in effect.

PASSED AND APPROVED this the 3rd day of August, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

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## WICHITA FALLS ECONOMIC DEVELOPMENT CORPORATION AGENDA

JULY 15 2021

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**ITEM/SUBJECT:** Panda Biotech Extension Request

**INITIATED BY:** David Leezer, CECD FM

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### **COMMENTARY:**

Last month, we discussed the possible extension of Panda Biotech's interim loan for another six months. While we are confident it would take less than four months to complete, it was considered more prudent to give them a six-month extension.

Given the complexity of the bond financing structure, we all agreed that someone with a greater understanding of finance should speak with company officials to gain a greater insight on the matter. At the request of WFEDC Board, a conference call was conducted with Panda Biotech, Chamber staff and representatives of the city's finance team

Dixie Carter started the conversation stating they are committed to Wichita Falls and intend to close on the building in July and COULD possibly start operations by the end of this year. The remainder of the meeting focused on the financing structure and use of both public and private funds. In short, our finance representatives sought to better understand the intricacies of the funding process.

After the conversation, Panda officials were to submit information to our representatives to and provide more details about bond program and how the private investors participate in the project I have followed up with Dixie to reiterate the importance of this follow-up information.

### **RECOMMENDATION:**

Pending discussion with the City finance team, we recommend a six-month extension to the payback deadline of Panda Biotech's forgivable loan.

Respectfully submitted,

David A. Leezer, CECD FM  
Vice President of Business Attraction  
Wichita Falls Chamber of Commerce

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**CITY COUNCIL AGENDA**  
**August 3, 2021**

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**ITEM/SUBJECT:** Appointments to Boards and Commissions

**INITIATING DEPT:** City Clerk

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**STRATEGIC GOAL:** N/A

**STRATEGIC OBJECTIVE:** N/A

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**COMMENTARY:** There is a midterm vacancy on the Park Board due to a member resigning as she is moving out of the area. Current applicants are Kristen Garrison, Patrick Hearn and Holly Scheller.

☒ **City Clerk**

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**ASSOCIATED INFORMATION:** Member Roster

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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## PARK BOARD

<i>PLACE</i>	<i>NAME</i>	<i>APPOINTED</i>	<i>EXPIRATION</i>	<i>QUALIFICATIONS</i>	<i>DISTRICT</i>
1	Larri Jean Jacoby	12/15/2020	12/31/2023		1
2	Vacant		12/31/2021		
3	Jessica Traw	11/07/2017 12/15/2020	12/31/2020 12/31/2023		5
4	Sandy Fleming	12/18/2018	12/31/2021		1
5	Jim Heiman	12/18/2018	12/31/2021		4
6	Dr. Michael Battaglino	07/20/2021	12/31/2022		4
7	Caitlyn Wood	12/03/2019	12/31/2021		1
8	Thomas Taylor	12/15/2020	12/31/2023		5
9	Alan Donaldson	07/05/2017 12/03/2019	12/31/2022		3
10	Charlie Zamastil	12/06/2016 12/03/2019	12/31/2022		1
11	Crystal Byrd	12/03/2019	12/31/2022		4