

City of Wichita Falls City Council Agenda



Stephen Santellana, Mayor
Bobby Whiteley, Mayor Pro Tem/At Large
Michael Smith, District 1
Larry Nelson, District 2
Jeff Browning, District 3
Tim Brewer, District 4
Steve Jackson, District 5

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



Notice Of Regular Meeting Of The Mayor And City Council Of The City Of Wichita Falls, Texas, To Be Held In The City Council Chambers, Memorial Auditorium, 1300 Seventh Street, Tuesday, February 1, 2022, Beginning At 8:30 A.M.

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

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

Item

1. Call to Order
2. (a) Invocation: Pastor Bob McCartney
First Baptist Church

(b) Pledge of Allegiance
3. Presentations
(a) Employee of the month – Melvin Phillips, Public Works/Utilities

(b) Proclamation – African American History Month, Wichita Falls Alliance for Arts and Culture

(c) Proclamation – Youth Leadership Wichita Falls Day of Recognition, Leadership Wichita Falls

CONSENT AGENDA

4. Approval of minutes of the January 18, 2022, Regular Meeting of the Mayor and City Council.
5. Resolutions
Resolution authorizing award of bid for the purchase of roll-out refuse and yard waste carts from Rehrig Pacific Company in the amount of \$89,655.00
6. Receive Minutes
 - (a) Wichita Falls Type B Sales Tax Corporation, November 4, 2021
 - (b) Wichita Falls-Wichita County Public Health Board, November 12, 2021
 - (c) Wichita Falls Economic Development Corporation, November 18, 2021
 - (d) Planning & Zoning Commission, December 8, 2021
 - (e) Landmark Commission, December 13, 2021

REGULAR AGENDA

7. Resolutions
 - (a) Resolution authorizing the City of Wichita Falls' continued participation with the Atmos Cities Steering Committee and authorizing the payment of five cents per capita to the Atmos Cities Steering Committee to fund regulatory and related activities related to Atmos Energy Corporation
 - (b) Resolution declaring the City owned property located at 3920 Lawrence Rd. also known as Lot 3, Block 214-A, Highland Addition, Wichita Falls, Wichita County, Texas as excess real property and authorizing permission to advertise the property to be offered for sale at sealed bid
 - (c) Resolution authorizing the City Manager to make application for a non-matching grant from the Office of the Governor, Public Safety Office, Homeland Security Grants Division in the amount of \$73,839.00
 - (d) Resolution authorizing the submittal of a grant application and designation of Authorized Official to the State Homeland Security Grant Program via the Office of the Governor for Position Specific Training
 - (e) Resolution authorizing the City Manager, or his designee, to make application to FEMA for the FY 2021 Staffing for Adequate Fire and Emergency Response (SAFER) in the amount of \$1,252,933.80 to allow for the hiring of up to 6 new firefighters. Successful applicants are not required to provide any match

- (f) Resolution authorizing the City Manager to execute all documents necessary to renew the contract for Innoculate software management services from Luminare Inc. in the amount of \$100,000
 - (g) Resolution authorizing the execution of a Memorandum of Agreement between the City of Wichita Falls and Robert McBroom MD, FACP for the Provision of Medical Services to the Wichita Falls-Wichita County Public Health District
 - (h) Resolution authorizing the Mayor to execute an Interlocal Agreement with the Wichita Falls Economic Development Corporation for reimbursement of water and sewer improvements serving the Wichita Falls Business Park.
8. Other Council Matters
- (a) Staff Reports – Downtown Scooter Proposal, Terry Floyd
 - (b) 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 Sessions
- (a) 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.
 - (b) Executive Session in accordance with Texas Government Code §551.072, to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.
11. Adjourn

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

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

CERTIFICATION

I certify that the above notice of meeting was posted on the bulletin board at Memorial Auditorium, Wichita Falls, Texas on the 26th day of January, 2022 at 3:00 o'clock p.m.



City Clerk

CITY COUNCIL AGENDA
February 1, 2022

ITEM/SUBJECT: Employee of the month.

INITIATING DEPT: Public Works – Wastewater Collections/Sewer Rehabilitation

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

☒ Director of Human Resources

ASSOCIATED INFORMATION: Narrative

☒ **Budget Office Review:**

☒ **City Attorney Review:**

☒ **City Manager Approval**

EMPLOYEE OF THE MONTH

FOR

February, 2022

NAME: Melvin Phillips

DEPARTMENT: Public Works – Wastewater Collections/Sewer Rehabilitation

HIRED: June 2019

PRESENT POSITION: Utilities Systems Worker I

NARRATIVE: Melvin originally started working for the city as a Utility System Worker I during the summer of 2019, and has been recently promoted to a Utilities System Worker II position on January 1st of this year.

He has learned how to perform the many different tasks within the Wastewater Collection Rehabilitation Department. Soon after his employment, Melvin began working on the Televising (CCTV) crew. Having two CCTV units, it was important to train someone that could operate both units as well as the equipment for each one, Melvin was an excellent choice. It was not long before he mastered the basics and began learning how to operate the mechanical portion of the equipment and now excels on each task he is assigned..

Melvin completed the Pipeline Assessment Certification Program (PACP) through National Association of Sewer Service Companies on March 22, 2020 and uses these standards to identify and assess pipeline defects while televising the sewer system, which allows the City of Wichita Falls to create a comprehensive database to properly identify, plan, prioritize, manage, and renovate our pipelines based on condition evaluation. He has also completed several TEEX courses including Wastewater Collections, Basic Wastewater Operations, and Pump and Motor Maintenance and is preparing to test for the Wastewater Collections Certification.

FAMILY: Melvin is married to his better half, Carly, and has two boys, Korbyn (6) and Melicah (1).

HOBBIES: He is a big Cowboys fan and enjoys gaming, listening to music, watching television with his family, and working. In his spare time, he takes his 3 dogs for walks, reads, and does activities with his children.

CLOSING: Melvin is a laid-back individual who never complains about an assignment but takes pride in his work and strives to improve on a daily basis. He genuinely cares about the perception of his work by others and always portrays himself in a professional manner. We are proud of his service and to recognize him as Employee of the Month for February 2022.



City of Wichita Falls
City Council Meeting
Minutes
January 18, 2022



Item 1 - Call to Order

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

| | | |
|--------------------|---|------------------------|
| Stephen Santellana | - | Mayor |
| Bobby Whiteley | - | Mayor Pro Tem/At-Large |
| Tim Brewer | - | Councilors |
| Jeff Browning | - | |
| Steve Jackson | - | |
| Larry Nelson | - | |
| Michael Smith | - | |
| | | |
| Darron Leiker | - | City Manager |
| Kinley Heggland | - | City Attorney |
| Marie Balthrop | - | City Clerk |

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

Item 2a – Invocation

Pastor Mark Bender, First Christian Church, gave the invocation.

Item 2b – Pledge of Allegiance

Mayor Santellana led the Pledge of Allegiance.

Item 3 – Proclamation – Wichita Falls Area Food Bank 40th Anniversary

8:33 a.m.

Mayor Santellana read a proclamation proclaiming January 18, 2022, as Wichita Falls Area Food Bank 40th Anniversary Day and encouraged everyone to join him in congratulating the Wichita Falls Area Food Bank on their 40th Anniversary celebration.

- - - - -

Item 4-6 – Consent Items

8:35 a.m.

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

Moved by Councilor Browning to approve the consent agenda.

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

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

Nays: None

Item 4 – Approval of minutes of the January 4, 2022, Regular Meeting of the Mayor and City Council

Item 5 – Resolution 03-2022

Resolution authorizing the City Manager to Approve Change Order No. 1 for the 2021 Water Budget Utility Improvements Project for a deduct in the amount of \$35,020.00.

Item 6 – Receive Minutes

Lake Wichita Revitalization Committee, December 14, 2021

- - - - -

Item 7 – Public Hearing - Designation of Reinvestment Zone at 726 Scott Avenue, Downtown, Wichita Falls, Texas

8:36 a.m.

Mayor Santellana opened the public hearing at 8:36 a.m.

Kinley Hegglund, City Attorney, discussed the purpose of the proposed Reinvestment Zone at 726 Scott Avenue, known as the Petroleum Building, and stated notice was

published on January 11, 2022, in the Times Record News, and provided to Wichita Falls ISD, and Wichita County as required by law. Creation of a Reinvestment Zone is the first step required before the Council can consider Tax Abatement Agreements in the future should they choose to do so.

Paul Menzies, Assistant City Manager, discussed the proposed project renovating floors two through ten of the Petroleum Building into 150-170 residential apartments. The project will be a \$14 million private investment, and the Type B Corporation has approved a Performance Incentive Agreement to assist with the fire suppression system for the renovation.

Councilor Brewer asked how much tax revenue is collected at this time. Will Kelty, owner, stated current taxes are approximately \$12,000 for the building and \$1,000 for adjacent parking. Mr. Menzies clarified that the only taxes that would be abated would be for the improvements only and would not reduce the current base taxes.

Councilor Jackson asked if there was sufficient parking for the proposed apartments. Mr. Kelty discussed his proposal with the Type B Corporation for parking, and the bank requirements for additional parking. Mr. Menzies discussed that the incentive agreement includes turning over the Lindemann Parking Garage to Mr. Kelty.

Councilor Smith asked if the apartments would be built on the existing footprint of the current rooms. Mr. Kelty stated that on floors two through four the footprint cannot be changed, but floors 5-10 will be changed with the exception of the central corridor. Councilor Smith asked if the apartments will have kitchen facilities, and Mr. Kelty stated they will all have full modern kitchens.

Councilor Nelson asked Mr. Kelty how he was going to get plumbing to the fifth floor and above. Mr. Kelty discussed installing supplemental pumps to assist with that. Councilor Nelson asked if Mr. Kelty would be using split units. Mr. Kelty stated that gas will not be installed and heating units on the fifth floor up will be individually metered, and the lower floors will stay on the central meter.

Mayor Santellana closed the public hearing at 8:48 a.m.

- - - - -

Item 8 – Ordinance 02-2022

8:48 a.m.

Ordinance designating property as a Reinvestment Zone that is located at 726 Scott, known as the Petroleum Building, Wichita Falls, Texas; providing for severability; and providing an effective date.

Moved by Councilor Brewer to approve Ordinance 02-2022 with a modification of sections 2e and 2g changing manufacturing facility to multi-family residential project.

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

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

Nays: None

- - - - -

Item 9a(i) – Public Hearing – Eligibility and Intention to Participate in the Texas Tax Abatement Program, Guidelines, and Criteria

8:50 a.m.

Mayor Santellana opened the public hearing at 8:50 a.m.

Mr. Hegglund discussed the requirement to approve guidelines for participation in the Tax Abatement Program every two years, and reviewed the nine guidelines for participation.

Councilor Whiteley stated that all nine items are in the agenda that is posted online for the public to review.

Mayor Santellana closed the public hearing at 8:55 a.m.

- - - - -

Item 9a(ii) – Resolution 04-2022

8:55 a.m.

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.

Moved by Councilor Brewer to approve Resolution 04-2022.

Motion seconded by Councilor Nelson and carried with the following vote:

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

Nays: None

- - - - -

Item 9b – Resolution 05-2022

8:56

Resolution approving the programs and expenditures of the Wichita Falls 4B Sales Tax Corporation Board of Directors and amending the budget to include funding up to \$133,000 to Kirk Laney, dba Picker's Universe LLC, to renovate the existing building at 1000 Indiana into a mixed use retail and restaurant establishment

Moved by Councilor Brewer to approve Resolution 05-2022.

Motion seconded by Councilor Smith.

Mr. Menzies discussed the proposed \$2.5 million renovation project previously supported by the Wichita Falls 4B Sales Tax Corporation, and stated although this is a new agreement; it is effectively an extension on the project due to delays relating to COVID and supply chain issues.

Motion carried with the following vote:

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

Nays: Councilor Jackson

- - - - -

Item 10 - Announcements concerning items of community interest from members of the City Council. No action will be taken or discussed.

8:59 a.m.

Councilor Smith stated that the Council and citizens appreciate the continued support of downtown development, and the Council wants to do their part by approving downtown projects.

Councilor Browning stated that although he voted yes on the previous item, he feels the owner should be present when asking for additional funding.

Councilor Whiteley agreed with Councilor Browning and thanked Mr. Kelty for being present today. He gave kudos to Public Works staff for taking care of a recent dumpster issue and being professional, courteous, and timely.

Councilor Nelson also agreed that property owners should be present when asking for funding, but he does agree with improvement for downtown. He thanked everyone for attending.

Mayor Santellana thanked everyone for attending. He stated most of the items today dealt with downtown development and he thanked Jana Schmader and Downtown Wichita Falls Development staff, the Chamber of Commerce, City Council, and staff for their efforts, and the Type A and Type B boards for vetting these projects. He is excited to see derelict structures being restored and put back on the tax rolls, and thankful for the private/public partnerships. Mayor Santellana encouraged everyone to participate in upcoming elections with Early Voting beginning in February.

Councilor Brewer asked Lou Kreidler, Director of Health, for a COVID update. Mrs. Kreidler stated that last week was a record-breaking week with our highest weekend totals, highest one-day total last Friday, and our highest positivity rate. They have sent samples for sequencing but have not received results, but they know that 93% of tests sequenced in Texas have been the Omicron variant. Omicron spreads very easily and she believes this is why we are seeing a high rate of increase in cases. She discussed the new federal government site to order free home tests, the plan to provide reimbursement for home tests, and stated that home tests are very hard to find locally. In areas where Omicron started, they have begun to see a plateau or decrease in cases. In Wichita Falls, she anticipates an increase in cases over the next few weeks before we begin to experience a decrease.

- - - - -

Item 11 – Comments from the Public to Members of the City Council Concerning Items That Are Not on the City Council Agenda

9:06 a.m.

Annie Jackson, 1027 Crescent Lane, Wichita Falls, addressed the Council and read a prepared statement in reference to covenants with God, Government, the Constitution, and individual rights and freedoms. She discussed a recent article published regarding the update of the sick leave policy, stated that the Mayor and Councilors are elected to represent the employees, and expressed her concerns regarding the change to the sick leave policy.

- - - - -

Item 12 – Executive Session

No executive session was held.

- - - - -

Item 13 –Adjourn

Mayor Santellana adjourned the meeting at 9:10 a.m.

PASSED AND APPROVED this 1st day of February 2022.

Stephen Santellana, Mayor

ATTEST:

Marie Balthrop, TRMC, MMC
City Clerk

**CITY COUNCIL AGENDA
FEBRUARY 1, 2022**

ITEM/SUBJECT: Resolution authorizing award of bid for the purchase of roll-out refuse and yard waste carts from Rehrig Pacific Company in the amount of \$89,655.00.

INITIATING DEPT: Public Works / Sanitation

STRATEGIC GOAL: Efficiently Deliver City Services

STRATEGIC OBJECTIVE: N/A

COMMENTARY: Bids were opened January 14, 2022 for the purchase of roll-out refuse and yard waste carts for the Sanitation Division. Four (4) responsive bids were received; all meet specifications and the bid tabulation is attached.

Rehrig has provided these carts to the City in the past and staff has been pleased with their performance. Therefore, staff recommends award of bid for roll-out refuse and yard waste carts to Rehrig Pacific Company in the amount of \$89,655.00.

The City Council approved \$190,000 in the current FY 2022 budget for solid waste containers replacement.

☒ **Director of Public Works**

ASSOCIATED INFORMATION: Resolution , Bid Tab

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

Resolution No. _____

Resolution authorizing award of bid for the purchase of roll-out refuse and yard waste carts from Rehrig Pacific Company in the amount of \$89,655.00

WHEREAS, the City of Wichita Falls advertised and requested bids for the purchase of roll-out refuse and yard waste carts; and

WHEREAS, bids were received and publicly opened on January 14, 2022; and

WHEREAS, the City Council finds that the lowest responsible bidder was Rehrig Pacific Company.

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

The bid for the purchase of roll-out refuse and yard waste carts is awarded to Rehrig Pacific Company in the amount of \$89,655.00 and City staff are authorized to execute all documents necessary to purchase said items in accordance with bid specifications.

PASSED AND APPROVED this the 1st day of February, 2022.

MAYOR

ATTEST:

City Clerk

BID TABULATION
BID 21-28 ROLL OUT REFUSE CARTS

| VENDOR | BRAND | REFUSE CARTS (1000) | | YARD CARTS (500) | | TOTAL |
|---|------------------------|------------------------|-----------|---------------------|-----------|--------------|
| | | EACH | SUBTOTAL | EACH | SUBTOTAL | |
| CASCADE ENGINEERING, INC. GRAND RAPIDS, MI | Cascade 96 | 59.84 | 59,840.00 | 59.84 | 29,920.00 | \$89,760.00 |
| OTTO ENVIRONMENTAL SYSTEMS LLC CHARLOTTE, NC | Otto MSD95E "Edge" | 67.95 | 67,950.00 | 67.95 | 33,975.00 | \$101,925.00 |
| REHRIG PACIFIC COMPANY RED OAK, TX | Rehrig 95 Gallon EG | 59.77 | 59,770.00 | 59.77 | 29,885.00 | \$89,655.00 |
| SCHAEFER SYSTEMS INTL INC CHARLOTTE, NC | Schaefer 95O | 61.50 | 61,500.00 | 61.50 | 30,750.00 | \$92,250.00 |



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

November 4, 2021

Present

| | | |
|--------------------------------------|---|----------------------------------|
| Tony Fidelie President | § | Members |
| Glenn Barham Vice President | § | |
| Rick Hatcher Secretary Treasurer | § | |
| Dave Clark | § | |
| Darron Leiker | § | |
| Nick Schreiber | § | |
| Mayor Stephen Santellana | § | Mayor and Council |
| R Kinley Heggland Jr City Attorney | § | City Staff |
| Blake Jurecek Assistant City Manager | § | |
| Paul Menzies Assistant City Manager | § | |
| Paige Lessor Recording Secretary | § | |
| Jana Schmader | § | DWFD |
| Carter Wallace | § | Backdoor Theatre |
| Dusty Potter | § | |
| Carol Sales | § | WF Alliance for Arts and Culture |
| John Ferguson | § | |
| Kristen Shiplet | § | |
| Will Kelty | § | The Kate |
| Lynn Walker | § | Times Record News |
| <u>Absent</u> | § | |
| Michael Mills | § | 4B Member |

1 Call to Order

Tony Fidelie called the meeting to order at 3 01 p m

2 Approval of Minutes of 9/2/2021

Dave Clark moved to approve the minutes Seconded by Darron Leiker the motion carried

6 0

3 Financial Report

Paul Menzies reported that sales tax is still doing well It is still performing 13% above budget Mr Menzies continued to explain that even though the fiscal year ended September 30 the state returns sales tax to cities in a two month lag time Sales tax receipts that are received next week will be for the end of September which should close out the Fiscal Year 2021 The financial report is reflective of the budget year Available cash for new projects is \$4 million This amount takes into account all of the items that the Board has approved and encumbered related to the MPEC Conference Center and Hotel Project

4 Public hearing regarding a funding request from Backdoor Theatre to assist in fire suppression system repairs and upgrades as part of the renovation of the existing building at 501 Indiana Ave Downtown

Mr Fidelie opened the public hearing at 3 03 p m

Carter Wallace Artistic Director of Backdoor Theater addressed the Board He explained that the Backdoor Theatre presented this request to the Board in September Mr Wallace noted that the Board requested their organization obtain more bids for the repairs Mr Wallace told the Board that the Theatre reached out to three different companies The only company to submit a bid was Firetrol for \$126 550 SNB Mechanical and APS never returned an estimate Mr Wallace stated that the organization is requesting assistance in \$104 632 for repairs to be made The Theatre is planning to spend a large amount of money to stay in the building that they currently occupy The building is 100 years old and the organization is 50 years old Mr Wallace told the Board that the Backdoor Theatre has been providing entertainment and theatre arts education to the City of Wichita Falls for over 50 years and they want to stay downtown That means many rehab projects for the facility The flood in 2020 brought to light an assortment of repairs and maintenance that need to be done to the facility Updating the fire suppression system is one of the first steps in maintaining the building Mr Wallace stated that they are excited to continue to provide theatre experiences and education downtown and asked if the board members had any questions

Mr Fidelie asked a question regarding the cover letter to verify that the amount in damages was \$671 000 due to a water line break Mr Wallace explained that the cast iron pipes blew to a pressure issue and hooking that part up to the fire suppression system will cost over \$20 000 He said that James Lane determined that the building is not up to code regarding fire suppression Mr Wallace further stated that upgrades to the system are needed to keep the building standing and audience patrons and volunteers safe Mr Fidelie again verified that \$671 000 was the cost of the damage from the flood and confirmed that the request letter later states that the organization will invest \$1 1 million in repairs and renovations

Mr Wallace confirmed that \$671 000 was the amount of damage done from the flood However the flood led to the assessment of other repairs that need to be done An estimate of over \$265 000 has been given to repair the brick and mortar The fire suppression line that blew alone caused \$671 000 in damages Dusty Potter President of the Backdoor Theatre Board of Directors explained that the \$671 000 does not include repairs to the suppression system That amount is only to get the facility running and operating again For that to happen the building must meet code requirements Mr Potter further explained that roof repairs are also needed and that the renovation will be an ongoing project The brick and mortar repair that is required will not happen right now but it is not far down the road

Mr Fidelie closed the public hearing at 3 08 p m

5 Public hearing regarding a funding request from the Arts Council Wichita Falls Area, Inc to assist in the Kemp Center for the Arts renovation project at 1300 Lamar St downtown

Mr Fidelie opened the public hearing at 3 08 p m

Carol Sales CEO of the Arts Council of Wichita Falls introduces John Ferguson and Kristin Shiplet to the Board and gives a brief history and summary of the renovation needs for the Kemp Center She described the Kemp Center as a one hundred year old building that has become

a great tourism site and a welcome for all that have moved away from Wichita Falls. Daily guests come in to see the building.

In 1917 Joseph Kemp originally constructed the building as a gift to the City. In 1968 the original Otis elevator was installed and is still in use today. The North and South wings were added at that time as well. In 1994 the Arts Council was formed as a 501(c)(3) non profit organization. In 2000 the Arts Council entered into a yearly lease agreement with the City of Wichita Falls for \$1.00 to save the building from demolition. The Arts Council then began renovation. The air conditioning was replaced and added, the roof was updated and replaced, and the grounds irrigation system was installed. In 2002 a quarterly grounds maintenance stipend of \$3000 was established and provided by the City and remains today. The historic drought of 2010 through 2015 brought change to the surrounding landscape. The grounds were modified and adapted to incorporate a native and sustainable garden. In 2012 the Arts and Culture Plan results were published and three initiatives were embraced. These initiatives were to establish a distance learning classroom for art lessons throughout Region 9 schools, have a performance center for the community, and provide a meeting place for other organizations (60 member organizations today). In 2018 the Arts Council received a grant from Green Mountain Energy Sun Club to update a portion of the lighting to LED lighting.

Ms. Sales stated that the funds for the 2022 renovation and upgrades are being requested today. Ms. Sales listed the following repair and renovation expenses: Reroofing through Lydick Hook for \$125,000; Lighting through Willen Electric for \$11,650 to upgrade lighting to LED throughout the entire building; Landscaping for \$10,000 through North Texas Design and Landscape to work on the outer perimeter of building to replace damaged landscape from the drought and Snowmageddon; Air Conditioning and Water Heater Upgrade for \$191,324 through Ferguson Veresh to include twelve air conditioning units; Elevator upgrades for \$134,790 through Otis Elevator; and Contingency in the amount of \$12,000.

The Art Council's 4B request is \$120,000 of the total amount of the renovation. Ms. Sales gave an overview of the Art Council's building expenses. The management of the two buildings cost \$285,000 of an \$861,000 budget. Utilities cost 22%, repairs and maintenance run 27%, security makes up 2%, telephone and internet run 8%, landscape is 11%, and insurance is 29% of the total budget.

The Art Council's income to manage the buildings every year comes from the following: membership 20%, ground maintenance fund from the City 10%, Annual Fund 35%, other donations 29% to 30%, memorials 4%. Ms. Sales concluded by asking the Board if they had any questions.

Mr. Fidelie asked about the other donations category. He noted that the category was a large percentage of the total income and wondered whether the money came from foundations or if people rented the building and provided revenue in that regard. Ms. Sales stated that the category is probably a combination of their foundation and pillars.

Mr. Barham referred to the Kemp Center 2022 Project Budget sheet and asked if Priddy Bridwell and Bryant had already made the donation amounts listed. Ms. Sales stated that they had not, but their answer should come by year end.

The Board had no further questions and Ms. Sales closed her presentation by presenting a four minute video about the Kemp Center for the Arts.

Mr. Fidelie closed the public hearing at 3:19 p.m.

6 Public hearing regarding a funding request from Will Kelty dba Petroleum Building Wichita Falls LLC to assist in fire suppression system upgrades as part of the proposed renovations at the existing building at 726 Scott Ave downtown

Mr Fidelie opened the public hearing at 3 19 p m

Will Kelty thanked the Board for seeing him again He stated that he recently requested help with the 713 Indiana Project and provided an update He said that within a week of the Board s commitment and support the gutting of the building started The demolition took two to three weeks and the surrounding walls were able to be saved It took six weeks to develop structural engineering plans to put on the roof and now that has been approved by the City Now they are in a Covid holding pattern waiting on steel As soon as steel is here they will begin putting the roof back together An architect is working on drawings to build the inside to construct a usable space that a tenant could rent out Mr Kelty thanked the Board for their support

Mr Kelty said that Downtown still faces some of the issues it has had for several years He explained that there is plenty of office space and retail but there is a housing shortage He stated that as soon as the City Center opened it filled up very quickly and remained at 100 % occupancy He showed a similar slide from 2016 explaining that when he first came to Wichita Falls he saw a division between the entertainment and business districts The divider is located around 8th and Scott The entertainment district is located between Scott and the railroad tracks and the business district is located at Scott and away from the railroad tracks Since Mr Kelty has been here activity has increased Downtown new players have come in and things are starting to grow He told a story about standing at the corner of 8th and Scott at 6 p m and he saw a fox run across the street and there was no traffic whatsoever However you do not find that to be the case today He believes that Downtown is continuing to grow He explained that he originally came to the 4B Board with a vision to create thirty lofts above the 8th Street Coffee Shop but when he got into the finances of the project it was not feasible without 4B support 4B came to the table with a forgivable loan of \$250 000 He stated that the project would not have happened without 4B support Mr Kelty displayed a photo of the 713 Indiana project while explaining the updates on the building

Mr Kelty further went on to explain why he came to the Board today He wanted to start this project several years ago but funding became an issue and he had to put it on the backburner The original plan was to complete the project in three phases The first phase is the ground floor then the next four floors as student housing and finally apartments on the top five floors The project has been stalled Mr Kelty explained the state of the building stating that it had been vacant for a decade vandals had stripped all the copper and vagrants had been living and starting fires in the basement He was able to restore the power and the rest of the utilities reasonably quickly He has now leased out some of the spaces The Highlander occupies space on the ground floor and there is a Wells Fargo ATM and three other retail spaces that include a dance studio a hemp shop and a liquor store The ground floor retail is ready to go and he needs to get going on other floors Mr Kelty described his vision of bringing the school downtown to make Wichita Falls more of a collegiate town He believes that would be an attractive thing for Downtown Therefore the lower floors are earmarked for attracting students

Mr Kelty explained further that this project is a problem to finance It would cost \$14 5 million to complete this project which does not jive with resale value Traditional banks will not loan the money because the collateral does not support the loan He went down the low income housing tax credit route but was disqualified due to the student housing aspect He was able to get the building on the historic building registry and the National Park Service has approved Part B

of his application meaning that they have approved all the plans to develop the building. He stated that a traditional bank would only lend \$5 million for this project and the resale value is around \$6 to \$7 million. He explained that the budget breakdown is in the PDF file.

He pointed out the historical relevance of the building and told about being a big fan of mid century. He stated that his grandfather was an old circus photographer and rehabbed old houses. He displayed a photograph of a chair designed by Mies van der Rohe while he discussed traveling to a foreign country to photograph a pavilion designed by Mies van der Rohe. A student of Mies van der Rohe designed this building. He stated that he wants to rebrand the building from the Petroleum to The Kate Hotel giving homage to The Kemp Hotel.

He stated that he had three requests for the 4B Board. The first request is to cover the cost of the sprinkler system. The second request is to freeze property taxes at the current levels and the third request from the financier involves parking spaces. The financier will fund the loan for five to seven years and then they want out and want to make sure the loan can be refinanced. There is a four story parking garage located one block away with a bridge connecting it to Big Blue. Mr. Kelty requested 4B grant him 150 parking spaces in that parking garage. Mr. Kelty believes that he can have floors two through five online within a year and the upper floors up and running in 18 months. The upper floors will take longer because they will be gutted and built from scratch. The National Parks Service requires that the project be completed within 24 months.

Further, Mr. Kelty explains that when he came to the 4B about three years ago, he was initially trying to finance the City Center Project and this project which included the request to pay for a sprinkler system. He wanted to clarify by explaining that the building was originally built with four floors of hotel and five floors of office. Mr. Kelty stated that when he designates those lower four floors as student housing, it changes from transient to permanent housing. This change causes the requirement of a sprinkler system. And the same change happens when the upper floors are designated as apartments rather than office space.

Mr. Kelty explained that when he came to the 4B last time, he had a term sheet from a bank, FNB. They had given him a commitment letter and he felt confident about acquiring the funding, but the bank essentially backed out citing environmental concerns. He was told that upper management got cold feet. Since then, he has contacted over forty four lenders before going down the historic tax credit path. Now he has a bank that is willing to lend on this. It is a complicated process and involves multiple players. One bank is providing a construction loan that has already been approved. He has a bridge loan to cover tax credits to which he has been committed. He has a federal tax credit buyer, Commerce Bank, and a state tax credit buyer, PNC. They both have committed. The appraisal came in and it squeaked by at a minimal number. He has the historic tax credit part A and part B complete. He has an independent auditor that keeps track of all the financing and has submitted the information to the bank. He has a law firm specializing in historic tax credits and they have been driving this process. The law firm included the requested caveats in their commitment letter. Mr. Kelty said he is confident that if 4B does support him on this project, he believes he will have the funding by the end of November. As soon as funding is in place, then he will have 24 months to complete the project. He believes it will take about 14 months to complete the lower floors and 18 months to finish the upper floors. Mr. Kelty concluded by asking if anyone had any questions.

Mr. Fidelie stated that Mr. Kelty gave the Board a lot of information. He confirmed that Mr. Kelty's request is threefold including the sprinklers, parking, and property taxes and those items are non negotiable. He confirmed that those things have to happen to get the deal done. Mr. Kelty confirmed that the deal would not happen without them. Then, Mr. Fidelie explained that the 4B Board has no control over property taxes and asked Mr. Kelty if he had gone before

the City Council Mr Fidelie then wondered if the financiers require a freeze on just the city taxes or the county and school district taxes Mr Kelty said the property taxes were about \$14 000 to \$15 000 per year and explained that his budget model would allow them to increase up to \$30 000 He explained that the bank would balk if the taxes went any higher than \$30 000 He explained that the property tax authority would know that \$14 5 million is going into this building and if they decide to tax it at amount the property will go bankrupt Mr Fidelie further stated Mr Kelty would need to convince three different boards on the property tax issue Mr Fidelie noted that the Board would have control over the parking and could grant the funds for the fire suppression system Mr Fidelie verifies again that all three contingencies would need to be met for the project to happen in 14 months Mr Kelty said that he asked them to spell it out in their offer letter to clarify their requirements to him and everyone else Mr Kelty noted that if he could not do the project the property taxes would stay where they were Mr Kelty stated that he loved the community and the idea of revitalizing Downtown but it has been a personal sacrifice in time and money Still he is betting in the long term that the City will thrive and the project will be profitable in the end Mr Fidelie then reconfirms that the tax credits are done and the funding amount he has been loaned is \$4 million And once the funding is approved Mr Kelty has 24 months to complete the project Mr Kelty said no it is going to be a combination He explained a construction loan is harder to obtain and a bridge loan is easier to acquire He went on to explain the bridge loan process He explained that the tax credits have a certain amount of value and that value can be essentially traded The bridge loan is relatively easy to get because the financier is banking PNC and Commerce Bank purchasing those tax credits so the bank knows those entities will buy it The financier of the bridge loan is just buying them at a cheaper rate He explained the values of the tax credits with an example of getting a million dollars in tax credits For the state tax credit his value is 83 cents and the federal tax credit value is 79 cents on the dollar Mr Kelty stated that if he can end up with a \$5 million loan he will be good He said that was his goal

Mr Leiker stated that he had no questions and that the Board appreciated Mr Kelty coming in He asked if Mr Kelty had copies of the construction loan letters of approval Mr Kelty said that they should be in the PDF file emailed to Mr Menzies He said if the Board could not find it let him know and he could email it He also stated that he was not sure if term sheets from PNC and Commerce were in the packet but that he could get those to the Board

Mr Schreiber verified that the construction loan was the more complicated loan to obtain and it was the one with the caveats Mr Schreiber further confirmed that the bridge loan was easier to acquire Mr Kelty said yes he had three banks willing to lend a bridge loan and the terms were similar He stated he had one bank willing to do the construction loan and for the past six months they speak via telephone every Wednesday at 9 00 a m He stated that he finally received the final appraisal on Monday or Tuesday and he received final approval from the National Park Service He went on to explain the process of the National Park Service tax credit He explained that first a request is submitted to the state explaining that this property has historical relevance then the state approves it and forwards the request to the National Park Service Then the NPS approves the request Plans then must be sent to the state and with an explanation of the changes to be made He stated that the NPS would not allow him to make some of his planned changes The process started in January or February and as of yesterday he was notified that the plan had been approved and he could start on the changes

Mr Clark asked if the configuration of the student housing would be similar to the current layout Mr Kelty said yes that is why he can get going quicker He will not change any of the walls on the lower floors but he does have to restore all of the plumbing The electricity and HVAC also have to be completely restored Some of the sewer lines can remain and some will

need to be replaced. The wall configuration can remain the same on floors two through five. He stated that he already had asbestos testing done throughout the building, and remediation had been done in the basement and equipment room. The only asbestos found on the upper floors is in 9x9 tiles. Mr. Kelty went on to describe what had been abated and what had not. He described some woodwork in the corner executive office on the tenth floor that the NPS would like maintained. He further explained that only the bathroom in that room would be demolished and remodeled to a full bathroom with a shower. He stated that there is popcorn ceiling in that office with asbestos, but it will be painted over. The popcorn ceiling must stay and cannot be disturbed. Mr. Fidelie thanked Mr. Kelty, and Mr. Kelty thanked the Board.

Mr. Fidelie closed the public hearing at 3:50 p.m.

7. Executive Session.

Mr. Fidelie adjourned the meeting into executive session at 3:50 p.m. pursuant to Texas Government Code section 551.087. He announced the meeting back into regular session at 4:11 p.m. The subjects posted in the Notice of Meeting were deliberated, and no votes or further action were taken on these items in executive session.

8. Consider a funding request from Backdoor Theatre to assist in fire suppression system repairs and upgrades as part of the renovation of the existing building at 501 Indiana Ave Downtown.

Mr. Leiker moved to approve a grant of \$104,642 to the Backdoor Theatre to assist in fire suppression repairs and upgrades as part of the renovation of the existing building at 501 Indiana Avenue, contingent upon the organization providing evidence that they have raised the remainder of funds needed for the renovations, totaling \$567,000, within 12 months. Seconded by Mr. Schreiber, the motion carried 6-0.

9. Consider a funding request from the Arts Council Wichita Falls Area, Inc. to assist in the Kemp Center for the Arts renovation project at 1300 Lamar St. downtown.

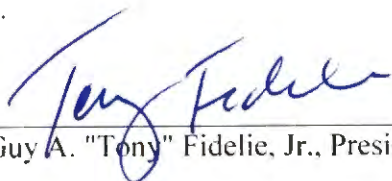
Mr. Clark moved to award a grant of \$120,000 to the Arts Council Wichita Falls Area, Inc. to assist in the Kemp Center for the Arts renovation project at 1300 Lamar Street contingent upon the organization providing evidence that they have raised the remainder of funds needed for the renovations, totaling \$365,000, within 12 months. Seconded by Mr. Hatcher, the motion carried 6-0.

10. Consider a funding request from Will Kelty dba Petroleum Building Wichita Falls LLC to assist in fire suppression system upgrades as part of the proposed renovations at the existing building at 726 Scott Ave. downtown.

No action was taken. Mr. Fidelie advised Mr. Kelty to visit with Paul Menzies after the meeting.

11. Adjourn.

Mr. Fidelie adjourned the meeting at 4:14 p.m.


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

**WICHITA FALLS 4B SALES TAX CORPORATION
BOARD OF DIRECTORS**

**CERTIFIED AGENDA
OF THE EXECUTIVE SESSION**

NOVEMBER 4, 2021


At the beginning of the session, I announced a closed meeting began on November 4, 2021, at 3:50 o'clock p.m., and the sections of Chapter 551 under which this meeting was held were as follows and as otherwise described in the agenda of the Wichita Falls 4B Sales Tax Corporation.

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 4BSTC seeks to have, locate, stay, or expand in or near the territory of the City of Wichita Falls and with which the 4BSTC is conducting economic development negotiations for creation and retention of primary jobs (as defined by TEX. LOCAL GOV'T. CODE §501.002).

At the end of the session, I announced the date and time were November 4, 2021, at 4:11 o'clock p.m.

The subjects described above were deliberated, and no further action or votes were taken on these subjects in executive session.

I, Tony Fidelie, President of the Wichita Falls 4B Sales Tax Corporation Board of Directors, certify that the above is a certified agenda of the proceedings of the executive session of the Wichita Falls 4B Sales Tax Corporation Board of Directors.



GUY A. "TONY" FIDELIE, VICE PRESIDENT
WICHITA FALLS 4B SALES TAX CORPORATION



WICHITA FALLS-WICHITA COUNTY PUBLIC HEALTH BOARD MINUTES

November 12, 2021

Wichita Falls-Wichita County Public Health District
1700 Third Street - Parker Conference Room
Wichita Falls, Texas

BOARD MEMBERS PRESENT:

Keith Williamson, M.D., Chair

Lauren Jansen, Ph.D., R.N., Vice-Chair

Julie Gibson, D.V.M., Secretary

Melissa Plowman

David Carlston, Ph.D.

Physician - City Appointment

Registered Nurse – City Appointment

Veterinarian - City Appointment

Restaurant Association - City Appointment

Citizen At-Large - County Appointment

BOARD MEMBERS EXCUSED ABSENCE:

Tonya Egloff, D.D.S.

Dentist - County Appointment

BOARD MEMBERS UNEXCUSED ABSENCE:

Paris Ward, M.A., B.S.

Citizen At-Large - City Appointment

OTHERS PRESENT:

Amy K. Fagan, M.P.A.

Woodrow W. Gossow, Jr.

Mark Beauchamp

Assistant Director of Health

County Judge

County Commissioner

I. CALL TO ORDER

Keith Williamson, Chair called the meeting to order at 12:03 pm after a quorum of members was attained.

II. APPROVAL OF MINUTES AND ABSENCES

Keith Williamson called for the review and approval of the September 10, 2021 minutes. Lauren Jansen introduced a motion to approve the minutes as presented and Julie Gibson seconded the motion. The motion passed unanimously.

Tonya Egloff had an excused absence and Paris Ward unexcused absence.

III. HEALTH EQUITY GRANT

Denise Santos the Health Equity Program Manager said the new Health Equity grant came about because of COVID-19, the pandemic brought to light a lot of social and racial injustice. Health Equity means when all members of society enjoy a fair and just opportunity to be healthy. In the community, the African American and Hispanic communities identified as Health Inequity communities.

Factors identified that increase risk of Health Inequity are:

- 1) Discrimination in healthcare, housing, education, criminal injustice, and finances.
- 2) Healthcare Access and Use for people of race and ethnic minority groups face multiple barriers due to lack of transportation, childcare and ability to take off work.
- 3) Occupations of the minorities are in settings that lead to more exposures such as CMA's in long-term healthcare facilities, factory workers, grocery stores, and public transportation.
- 4) Educational income and wealth gaps for people of some racial and ethnic minority groups have less access to high quality education.
- 5) Housing for racial and ethnic minority groups that live in crowded conditions cause a higher percentage of people to spread COVID.

The African American and Hispanic communities have a lack of trust in government and education. First goal is gain trust, to get out into the community hold town hall meetings, lunches, focus groups with community leaders, identify the problems and offer help with the needs. The East Branch Y known as a trusted community building now is the All Hands Cultural Community Center will house the Health Equity program temporarily to bring clinics and education into the community. The Center will hold clinics for immunizations, educational

classes on diabetes and chronic diseases, WIC, classes on cooking, finances, mental health, suicide prevention, bullying/anti-bullying and arts to relax, relieve social stress. Also, provide the facts on the COVID vaccine in an attempt to eliminate the misinformation to make sound decisions about their health to live longer. COVID-19 was a curse in that so many people lost their lives and a blessing in identifying those issues that need addressed, that is the Health Equity program. Now just trying to encourage and educate those communities that making better decisions have better outcomes. The program covers all Wichita County communities but the first focus is on downtown to develop a system to mimic. The Boards support would be appreciated it will take a lot of work and partnerships but with everyone working together it can be done.

Lauren Jansen asked if the community uses the Community Health Center since it is centrally located.

Denise Santos said some do but the point is to get them there many have a blockage that there is no need to go to the Doctor, essentially dealing with a cultural mentality. The intent is to break that cycle, get them to know their self-value, self-worth, to go get a check-up so the Doctor can establish a baseline, unfortunately something not taught.

Keith Williamson asked if medical literacy was going to be a part of the goals to establish in this.

Denise Santos replied absolutely, Health Equity to her is all-inclusive. It is everything not just physical health, it is the financial, social and mental stresses, she wants the communities to understand the identified factors. As many partners as possible are needed to come, teach and educate the populations to enable better decisions.

Julie Gibson asked how is all that going to happen, through town meetings, door to door, what is the plan.

Denise Santos said she does go door to door, attends Wichita Falls Housing Authority resident meetings, met with community leaders and a brainstorm meeting with focus groups is set for tomorrow. Now just trying to get it started to identify and how to provide the specific needs.

Lauren Jansen said the churches have been invaluable as far as to touch-base.

Denise Santos said she had talked to the churches there are numerous churches on the eastside, the pastors and preachers are trusted in the community, it is going to be a group effort. Her joining in with the community builds relationships that gains trust, she wants them to understand it is to formulate long lasting relationships not just to tell them what to do and leave.

Melissa Plowman asked if the program would be utilizing the area food bank programs, the cooking matters, that sort of thing.

Denise Santos replied absolutely, even the Food Bank designated distribution locations to reach out get a conversation going on their needs, their thoughts.

Lauren Jansen said she suggested to MSU Health Sciences to do more outreach, she is interested in childhood obesity that is across the board and needs addressed. She hopes to start by the fall of next semester a medical Spanish so the healthcare providers can converse with the Spanish population.

Denise Santos said the All Hands Cultural Center has a commercial kitchen and the Health District's Dietician will teach some healthy living cooking classes.

Judge Gossom said Heather Simpson with the County Extension Service is the Better Living for Texans (BLT) agent she does cooking, meals training, things like that, to use her services it does not cost anything.

Lauren Jansen asked if Judge Arthur Bea community garden still exists because that would be a place to restart.

Denise Santos said there is a community garden she aims to restart, a few people volunteered to get it started.

Julie Gibson asked about going to schools because education starts with the kids getting it home to the parents, are there plans to educate the kids.

Denise Santos replied definitely will be in the schools, the Assistant Superintendent will be at tomorrow's brainstorm meeting to consult on how to participate in all the schools to teach different topics.

Julie Gibson said if in need of volunteers or anything put her on the list, she will do what she can.

Keith Williamson expressed that judging by the Board's enthusiasm all the Board would be delighted to help.

Commissioner Beauchamp asked as they have new patients in need of service where are they to send them.

Amy Fagan responded what prompted that as all probably have heard, about a month ago the Community Healthcare Center (CHCC) made an announcement of limiting new patient intakes between ages 18 and 64, unless pregnant, that put a burden on the community. CHCC is ran by a Board, the Health District as a governmental entity cannot lobby the Board only make requests and inform them of the burden. It is very challenging her suggestion is for people is to call, tell them what a burden it is on the community, reach out to Allen Patterson the CEO. There was no advance notification, communication, coordination, the Health District referral resources are severely limited.

Commissioner Beauchamp said if there is Health Equity grant money that is an area in real need of providers that provide services to indigents and others of less economic status.

Lauren Jansen said the problem is going to be transportation, if it is not located in an area to get to reasonably easy that is going to be difficult.

Amy Fagan informed Commissioner Beauchamp that the Home Equity funds are only for Public Health preventative services, referral and resource services, not for primary care. CHCC is a Federal Qualified Health Center (FQHC) in that the money received is a very distinguished and different available resource in how CHCC chooses to use that money.

Judge Gossom advised Rolling Plains Management Services might be a contact for helping with the transportation to get people to medical facilities.

Keith Williamson thinks there is lots of room for the Board to contribute both in voice and time as Denise gets the program organized.

IV. COVID-19 UPDATE

Amy Fagan advised cases are down, this week 102 new cases, 5 deaths, and 19 hospitalizations with 1 a reinfection one of the original 500. Still questioned a lot is vaccine breakthrough, she does not have data on how many by type of vaccine in the community so it is not indicative whether Pfizer or Moderna performed better because more Pfizer may have been given, now most all vaccine breakthrough are symptomatic. The Delta variant has killed a lot of the vaccine breakthrough cases, the majority of deaths now reported. The average number of days from vaccine series completion to onset now is 165 days and that range is 11 to 270. People were comparing reinfections and vaccine breakthroughs it is not an apples to apples comparison, so she put together useful information on reinfections vs. vaccine breakthroughs to allow people to make a better comparison. Vaccine breakthroughs are those individuals fully vaccinated, as of the close of last Friday had over 54,000 fully vaccinated with 974 that have contracted COVID-19 that is 1.8%. There are 16,000 people potentially re-infected of those 201 are validated as reinfection so that is 1.24%. Now have individuals considered as a third case their second reinfection, there are 30 individuals in both reinfection and vaccine breakthrough categories.

Vaccine demand has been steady, pediatric Pfizer became available last Thursday given 83 pediatric doses, and seen a steady demand for both Pfizer and Moderna booster shots. An informative graphic on eligibility for the booster is on the health social media page, now most qualify because of their job, age or health status. Individuals moderately to highly immunocompromised are eligible for a third dose not a big difference unless had the Moderna a full dose vs. booster a half dose.

So disconcerting with so many deaths in the younger 20s and 30s, the loss of parents with young children. In observation of some of the deaths looked for ethnicity and underlying health conditions. There is no data or fact to publish but from review of all the case reports Diabetes through last February was not an outcome of COVID, saw it more often with Delta that people with diabetes not fare as well. BMI tends to be a better indicator of outcome, in some of the individuals that passed away there were no underlying health conditions other than obese or morbidly obese. Typically, what she looks for is obese with a chronic condition certainly seen that, but more often than expected with no diagnosed underlying health condition and obesity or morbidly obesity.

Melissa Plowman asked on the vaccine breakthrough deaths is there data not just Wichita Falls but across the country. Is there indications that the vaccine breakthroughs are happening after a period of time that they are

giving less immunity from the vaccine. Are the ages typically of the deaths older where immunity maybe more of an issue than it would be for a 20 year old, for example.

Amy Fagan replied she looks for National and State data but not seen the data in other places, she cannot speak on other things that are happening other than what she has seen. Yes primarily in vaccine breakthrough deaths most are 60 and older, actually 70 and older is the highest, with at least one health condition disclosed on their case report.

Keith Williamson stated he knows United Regional has periodically released some figures and graphics that suggest it is people predominately over 70 who are vaccine breakthrough cases who actually end up in ICU or die and often they have multiple comorbidities. What he sees in regards to the efficacy waning of the vaccine without getting into an immunology lecture you got two components to immunity. The cellular component a long-term memory component then antibodies the vaccine seems to induce circulating antibodies that effectively neutralize the COVID virus for about four to six months then fades out. You still have that cellular immunity what that means is that you will get exposed to COVID you may catch COVID and then your cellular immunity wakes up and starts producing antibodies that limits the severity. If you have gotten the vaccine, you do not end up in ICU or dead that is a substantial victory. He asked Amy what the test positivity rate was for this week.

Amy Fagan said not since June it is 6.8% and long-term care facilities will not have to test twice a week.

Julie Gibson asked if there is any information on the antiviral pill and availability in the area.

Keith Williamson said there are two under review by the FDA one is a nucleoside analogue that basically, gives a funny looking Lego that does not fit with the rest of the Legos, so everything falls down. The other is a protease inhibitor by Pfizer when the virus releases its information into the cell it makes proteins, trimmed into their final form using viral protease inhibitors, the protease inhibitor blocks that. Very much like the approach taken with HIV, he suspects the drugs ultimately will be able to be used in combination. Although he does not think will be in our hands until several months but it will be a game changer when we do because right now his treatment is sorry, there is nothing to be done go home call me if you get worse.

Keith Williamson said sadly, the Board is going to miss one long time member, Julie Gibson.

Amy Fagan thanked Julie Gibson for her eight years on the Board that it is going to be strange without her, thank you from all of us.

Julie Gibson replied thank you it has been a pleasure to be on the Board.

V. NEXT MEETING DATE

Friday, January 14, 2022

VI. ADJOURN

Keith Williamson adjourned the meeting at 12:46 pm.



Signature

Keith Williamson, MD

Print Name - Keith Williamson, MD, Chair, Lauren Jansen, PhD, RN, Vice-Chair, Julie Gibson, DVM, Secretary

MINUTES OF THE
WICHITA FALLS ECONOMIC DEVELOPMENT CORPORATION

November 18, 2021

Present:

| | | |
|---|---|---------------------|
| Leo Lane, President | § | WFEDC Members |
| David Toogood, Vice-President | § | |
| Darron Leiker | § | |
| Brent Hillery | § | |
| Stephen Santellana, Mayor | § | Mayor and Council |
| Paul Menzies, Assistant City Manager | § | City Administration |
| Blake Jurecek, Assistant City Manager | § | |
| R. Kinley Hegglund, Jr., City Attorney | § | |
| Russell Shreiber, Director of Public Works | § | |
| Jessica Williams, Chief Financial Officer | § | |
| Terry Floyd, Dir of Community Development | § | |
| Andrea Kidd, Public Information | § | |
| Paige Lessor, Recording Secretary | § | |
| Henry Florsheim, President and CEO | § | WFCCI |
| Katie Britt, V.P. of Marketing | § | |
| Travis Haggard, V.P. of BR&E | § | |
| Shay Jones, Director, Business Intelligence | § | |

Absent:

| | | |
|--------------------------------------|---|--------------|
| Phyllis Cowling, Secretary-Treasurer | § | WFEDC Member |
|--------------------------------------|---|--------------|

1. Call to Order

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

2. Strategic Discussion

Mr. Lane called upon Henry Florsheim to start the strategic discussion. Mr. Florsheim discussed that one part of a community-wide strategy is ensuring the community has adequate sites and buildings for business recruitment and expansion. A discussion began about improving the infrastructure at the business park, so the WF Chamber of Commerce and Industry researched peer communities' business parks, including their appearance, infrastructure, and marketing.

Ms. Shay Jones from the WFCCI presented a PowerPoint slide show comparing business parks located in peer communities.

Summary:

- **Abilene**
 - Top Industries – Oil and Gas, Dyess Air Force Base, Wind Energy, Advanced

Manufacturing

- Two business parks with lot sizes ranging from 2 acres to 107 acres
 - Five Points Business Park
 - Access Business Park
- Marketing – Chamber of Commerce, local news stations, Facebook, site search magazines, Abilene Industrial Foundation
- Location – on Interstate 20 outside of town
- Fully equipped with infrastructure

Mr. Florsheim asked Ms. Jones if she knew to which park Abilene's big dairy prospect went. Ms. Jones was unsure but assumed it would have gone to the Five Points Business Park. Mr. Florsheim said that Mr. Toogood planned to visit Abilene and would research it. Mr. Florsheim stated that he would keep the Board posted.

- **Amarillo**

- Population over 200,000
- Two business parks:
 - Western Business Park
 - Canyon Business Park
- Traditional, older business parks located on the outskirts of town.
- Marketing - Chamber of Commerce, commercial data platforms such as LoopNet, CREXi, and CommericalCafe
- Location – close proximity to the airport
- Advertising their overhead doors, high ceilings in warehouses, and flex space

Mr. Lane asked if the Amarillo business parks had buildings already constructed or “speculative” properties. Ms. Jones confirmed that they did have speculative properties. Mr. Lane then asked whether Abilene had any speculative properties. Ms. Jones stated that Abilene had some speculative properties, but most of their marketing was geared toward available lots and tracts. Mr. Lane affirmed that Amarillo had some buildings available, and Ms. Jones reaffirmed that Amarillo had buildings available.

- **Lawton**

- Population over 90,000
- Three different sites primarily located off Lee Blvd and I44
- Some industrial tracts located toward the airport
- Marketing – similar to the other peer communities – local Chamber of Commerce, local news stations, commercial platforms such as LoopNet and CREXi
- Utilities – accessible roadways
- Largest lot size is 440 Acres

- **Longview**

- Population over 81,000
- Two Business Parks:
 - North Business Park
 - Opened in 1994
 - 704 total acres with 419 acres currently available with plans to expand
 - Longview Business Park

- Opened in 2011
 - Ongoing projects
 - o Marketing is similar to all other business parks.
 - o Location – North of I20
 - o Zoning – Light Industrial
- **Lubbock**
 - o Population over 257,000
 - o Over 500 acres with 17 lots ranging from 4 acres to 60 acres
 - o Marketing is similar to peer cities.
 - o Advertising – rail transportation available, warehouse industrial dock doors, and clearance space.
 - o Zoning – Industrial Park District
- **Tyler**
 - o Different in their marketing and space utilized
 - o Phase one construction of a three-story office complex with 50,000 square feet to house a daycare facility to benefit industrial workers
 - o Marketing – Chamber of Commerce, Facebook, and YouTube
- **Decatur**
 - o Population 6,538
 - o Currently advertising their railway and proximity to Fort Worth
 - o Utilizing their convenience to Fort Worth and the I35 corridor
 - o Zoning – Heavy Industrial
- **Denton**
 - o Population 139,869
 - o Westgate Industrial Park is a 1,500-acre master-planned park with over 700 acres available.
 - o Marketing – Chamber of Commerce, commercial platforms such as CREXi and CommercialCafe
 - o Type of Industries – Manufacturing, Transportation, and Warehouse
 - o Surging and on the cutting edge of the automotive industry with class 6A trucks and hybrid vehicles.
- **Wichita Falls**
 - o Marketing – similar to all other peer cities. Exceeded marketing efforts through the Chamber of Commerce, LinkedIn, Facebook, YouTube, local news station.

Ms. Jones stated that all the business parks' marketing is similar to the Wichita Falls Business Park marketing. This marketing includes getting information from the governor's office and ensuring the business park is part of that project. Mr. Leiker requested an emailed copy of the PowerPoint, and Ms. Jones affirmed that she would email a copy.

Mr. Florsheim stated that the key takeaway from this presentation is that everyone has a business park, but each is a bit different. He explained that the situation is not strictly "if you build it, they will come" because of all the competition. However, "if we don't have it built, we know what happens." He stated that the strategic plan to grow Wichita Falls should include the business park.

Mr. Lane wondered how Wichita Falls would compare if he was a potential prospect and drove to Abilene or Longview. He asked about the attractiveness of the lots and if anyone had a feel about prospects. He said he knew that some of the larger lots had mesquite patches, while others had been cleared. Mr. Florsheim discussed using sample prospects. He explained that the Chamber could take the research done so far and go to the next level. Mr. Lane stated that Wichita Falls had a couple of prospects that were pretty close to making a deal, but it didn't happen. He asked if changing some things with the park would make it more attractive to prospects, such as clearing brush or building a fence. Mr. Florsheim said that could be explored. Mr. Florsheim stated that the entrance to the park is attractive, but lots located further in the park are covered in mesquite. A prospect might wonder how long it would take to start construction on their project. Mr. Lane was curious as to a prospect's first-time impression. Mr. Leiker asked, "what is the business park's curb appeal?" Ms. Britt wondered whether the board members were wondering how the park looked at street level and if photos would be helpful. Mr. Florsheim said that the team would visit and return to the Board with more information.

3. Discussion and possible action related to appointment of officers.

Mr. Toogood asked if the officers' terms were expired. Mr. Lane said yes, that was his understanding. Mr. Leiker asked for some background information, and Mr. Heggglund responded that the terms did expire. Mr. Heggglund further explained that the terms are good for one year, and the officers have served over one year, so this would be a good time for elections. Mr. Lane said the Board would circle back to elections during the executive session.

4. Discussion and possible action related to Panda Biotech performance agreement.

This item was discussed in the executive session.

5. City staff presentation regarding the progress of the ongoing Business Park Infrastructure Project.

Mr. Schreiber gave an update on the water and sewer improvements. He stated that a discussion started a year ago about selling bonds and making improvements to the park to make it more attractive, give it more curb appeal, and make it more shovel-ready. The Board decided to issue some bonds and move forward with three different projects.

Project 1: Mr. Schreiber reported that the water and sewer improvements were all but finished. The City installed a new collective system and a new water line for fire flow protection and better capacity at the park. Mr. Schreiber stated that two 100-acre tracks (7 and 8) were show-ready, except for the mesquites to be cleared and a site pad to be built. He noted that the project was awarded in June and is nearly complete.

Project 2: Mr. Schreiber explained that this project would extend and widen Midwestern Parkway and complete the other half of Fisher Boulevard. This project is completely designed and being advertised for bids. He is trying to open bids and work it into the Board's December meeting to consider awarding the project.

Project 3: Mr. Schreiber stated that this project would widen Hammon Road from US287 to the Midwestern Parkway extension. Mr. Schreiber explained that through the course of the work, staff discovered a portion of the road that lies in the County outside of the city limits. The City then went to County and asked them if they would be interested in participating in the improvements in Hammon Road. The portion measures 800 to 900 feet in length. The County was

very receptive to participating. The County has ARPA funds that they would like to use on water and sewer improvements. The City and County entered into an agreement in which the County agreed to pay for the Phase I Project amounting to slightly over \$1,000,000. This agreement allowed the change order that has been brought before the Board. The County has indicated that they will cut the check on the 22nd, so those funds will be back in 4A's budget quickly. The City agreed to an MOU for Phase I improvements.

Additionally, the City agreed to improve that portion of Hammon Road. The MOU will be brought to the City Council's December 7th meeting. Mr. Schreiber stated that things are moving along well at the business park and that he would be glad to answer any questions.

6. Consider and take action to approve Change Order #1 for the Business Park Phase 1 – Water and Sewer Improvements in the amount of \$135,258.42, and authorizing the Board president to execute all related documents.

Mr. Schreiber explained that during the design phase, Biggs and Matthews suggested that a 12-inch water main be looped into the existing water line on Production Ave. This pipe would connect to the proposed 12-inch water main to be installed along Midwestern Pkwy. The connecting main would be located along the west property line of Old Dominion Trucking. This installation would allow an increase in fire flow capacity to a range of 3,000 to 3,500 gallons per minute. Adding these lines would give the business park one more checked box when comparing it to other sites. However, this proposed line was removed from the project due to budget constraints. Now that the County has kicked in its ARPA funds, the City staff and the consultant thought it would be a good idea to go ahead and improve this line. This Change Order would add this project to the Water and Sewer Phase I. Mr. Schreiber informed the Board that the contractor is moving forward and is currently installing the waterline.

7. Consider and take action to approve the dedication of a 15-foot wide utility easement to the City of Wichita Falls as part of the Business Park Infrastructure Project, and authorizing the Board president to execute all related documents.

Mr. Schreiber stated that a 15-foot utility easement needs to be dedicated for the waterline. There is a 10-foot easement on the Old Dominion lot, but it is under concrete covered parking. Rather than sawing out concrete from the covered parking located on the Old Dominion lot, it would be easier to give the City another 15-foot easement for the waterline. This would be done when the business park is platted for the Midwestern Parkway Improvement. Mr. Lane asked if that would preclude the property behind Wichita Clutch and if lots would have to be accessed through a future extension of Production Blvd. Mr. Schreiber answered that there were three lots already platted that would need to be accessed by way of Production Blvd.

Mr. Schreiber said that when he was at the business park with some of the representatives of the manufacturing companies, he felt like they could not see what they were buying because the property was too overgrown. He believed it would be very beneficial to clear out the mesquite trees and brush.

8. Consent Agenda

a. Approval of Minutes (October 14, 2021).

Mr. Heggland stated that Ms. Cowling had sent an email asking if the minutes from August 19th and August 23rd had been properly approved. Mr. Heggland explained that they had been

properly approved at the October 14th meeting. The only minutes that need approval are the October 14th minutes. Mr. Leiker moved to approve minutes. Seconded by Mr. Toogood, motion carried 4-0.

b. Financial Report

Mr. Menzies stated that the City was receiving the November Sales Tax Payment, which reflects September and closes out Fiscal Year 2021. He said that sales tax continued to do well, performing 12.5 percent ahead of last year and about 25 percent ahead of what was conservatively budgeted. He stated that the Board's bottom line is approximately \$8,000,000 in unreserved cash, and he told the Board that Jessica Williams, Chief Financial Officer, was available if anyone had any questions.

9. Executive Session

Mr. Lane adjourned the meeting into executive session at 2:57 p.m. pursuant to Texas Government Code §551.087. Mr. Lane recused himself from the executive session during discussion of Panda Biotech. He announced the meeting back into regular session at 3:22 p.m. The subjects posted in the Notice of Meeting were deliberated, and no votes or further action were taken on the items in executive session.

10. Motions

Appointment of Officers

Mr. Leiker moved to reappoint the current officers. Seconded by Mr. Hillery, motion carried 4-0.

Change Order #1 for the Business Park Phase 1

Mr. Toogood moved to approve Change Order #1 for the Business Park Phase 1 – Water and Sewer Improvements in the amount of \$135,258.42; Seconded by Mr. Leiker, motion carried 4-0.

Dedication of a 15-foot Wide Utility Easement as Part of the Business Park Infrastructure Project

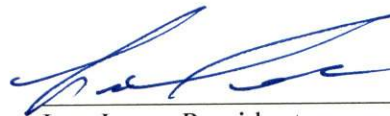
Mr. Leiker moved to dedicate a 15-foot easement to the City of Wichita Falls as part of the Business Park Infrastructure Project. Seconded by Mr. Toogood, motion carried 4-0.

Panda Biotech Agreement Extension

Mr. Toogood moved to approve an extension of the agreement between the 4A Board and Panda Biotech until 6/30/2021; Seconded by Mr. Hillery, motion carried 4-0.

11. Adjourn.

The meeting adjourned at 3:26 p.m.



Leo Lane, President

WICHITA FALLS ECONOMIC DEVELOPMENT CORPORATION
CERTIFIED AGENDA OF THE EXECUTIVE SESSION
January 20, 2022

At the beginning of the session, I announced a closed meeting began on **January 20, 2022, at 2:46 o'clock p.m.**, and the sections of Chapter 551 of the Texas Government Code under which the meeting was held were as follows and as otherwise described in the agenda of the Wichita Falls Economic Development Corporation (WFEDC) meeting:

Executive Session in accordance with TEXAS GOVERNMENT CODE §§551.072 and 551.087, to discuss or deliberate the offer of a financial or other incentive, including modification to an existing agreement, for a territory of the City of Wichita Falls and with which the WFEDC is conducting economic development negotiations for creation and retention of primary jobs (as defined by TEX. LOCAL GOV'T. CODE §502.002).

At the end of the session, I announced the date and time were **January 20, 2022, at 4:00 o'clock p.m.** The subjects described above were deliberated, and no further action was taken on these subjects in executive session.

I, Leo Lane, President of the Wichita Falls Economic Development Corporation, certify that the above is a certified agenda of the proceedings of the executive session of the Wichita Falls Economic Development Corporation.



Leo Lane, President

MINUTES
PLANNING & ZONING COMMISSION

December 8, 2021

PRESENT:

Jack Browne
David Cook
Michael Grassi
Blake Haney
Noros Martin
Wayne Pharries
Cayce Wendeborn
Jeremy Woodward
Councilor Whiteley

◆ Member
◆ Chairman
◆ Member
◆ Member
◆ Member
◆ Alternate #2
◆ Member
◆ Vice-Chair
◆ Council Liaison

James McKechnie, Deputy City Attorney
Terry Floyd, Development Services Director
Fabian Medellin, ACIP, Planner III
Christal Ashcraft, Development Services Assistant
Cedric Hu, Planning Technician
Rita Miller, Neighborhood Services Manager

◆ City Staff
◆
◆
◆
◆
◆

ABSENT:

Dan Leslie
Steve Lane
Mark McBurnett

◆ Alternate #1
◆ Member
◆ SAFB Liaison

I. CALL TO ORDER

The meeting was called to order by Chairman, Mr. David Cook, at 2:00 p.m. Chairman Cook proceeded to make the following comments:

- a. This meeting is being televised live on Channel 1300. It will be replayed at 2:00 p.m. daily including Saturday and Sunday until the next live meeting is aired which will be the second Wednesday of next month at 2:00 p.m.
- b. Motions made by the Commission members include all staff recommendations and developmental requirements listed in the staff report. Any deviations will be discussed on a case-by-case basis and voted on accordingly.
- c. Applicants and citizens who wish to address the Commission or answer questions from the Commission members are asked to please speak into the microphone at the podium. This meeting is being taped and there is no microphone to record statements made from the audience.
- d. Commission members, when speaking please remember to press the button to turn on your microphone.

- e. Please silence all cell phones during the meeting. If it is necessary for you to have a cell phone conversation during the meeting, please use the hallway outside this room.

II. ROLL CALL

Chairman Cook roll called Commission and staff members.

III. PUBLIC COMMENTS

Chairman Cook asked if there were any comments from the public. With no response, Mr. Cook closed public comments.

IV. APPROVAL OF MINUTES

Mr. Noros Martin made a motion to adopt the November 10, 2021, minutes. Mr. Jack Browne seconded the motion. The motion was passed unanimously, 8-0

VII. CONSENT AGENDA

Case P 21-17 Broyles Addition, Lot 1, Block 1

Case P 21-19 Priddy Subdivision, Lots 3 & 4, Block 9

Chairman Cook asked if anyone had an item to be moved to the regular agenda. Mr. Fabian Medellin advised the Commission Case P 21-19 Priddy Subdivision, Lots 3 & 4, Block 9, was being withdrawn from the consent agenda as it was an incomplete submission. Ms. Cayce Wendeborn made a motion to approve the consent agenda. Mr. Jack Browne seconded the motion. Motion passed unanimously, 8-0.

VIII. REGULAR AGENDA

1. Case C 21-26 – 5119 Jamaica Drive:

Consider taking action on a conditional use to allow for a carport in the required front setback in a Single Family-2 (SF-2) zoning district.

Applicant/Owner: Jamie Calderon

Location: 5119 Jamaica Drive

Ms. Cayce Wendeborn made a motion to approve the case, Mr. Jack Browne seconded. Mr. Cedric Hu presented the case and stated staff met with the owner, Mr. Jamie Calderon, regarding constructing a carport in the required front setback.

Mr. Hu advised 5119 Jamaica Drive was located in the south part of Wichita Falls, south of Southwest Parkway and north of Fowler Elementary School. Mr. Calderon is proposing to construct a carport 20 ft. x 20 ft. in the first 5 ft. of his property. The

edge of the roof overhang from the front property line will be approximately 3 ft., from the side property line to the west will be approximately 5 ft. The overall height of the carport in the residential neighborhood will be 8 ft. and supported by 4 columns.

Mr. Hu stated staff sent notices to 29 property owners and received 7 responses back, all in favor of this proposal. It is noted that there was currently one carport within the 200 ft. notification area. Staff recommends approval of this Conditional Use carport request for 5119 Jamaica Drive with the following conditions:

- A. Further site plan review by planning and building inspections at the time of permitting for construction to verify conformance with Sec. 4220 and all other applicable code and ordinances.

Chairman Cook asked if the applicant was present and wished to make a presentation. The applicant, was present but wished to give no statement. Chairman Cook asked if there were any other public comments. Mr. Cook closed the case for public discussion and opened it up to the Commission. Chairman Cook asked if there were any other comments. Commission member Mr. Martin asked what the building limit line was for the residential area and stated it looked as though this would overhang into that area. Mr. Fabian Medellin explained the purpose of this proposal to the Commission. Chairman Cook called for a vote. The motion passed unanimously with a vote of 8-0.

2. Cases C 21-27 – 1026 Central Freeway:

Consider taking action on a conditional use to allow a 165 ft. communication tower in a General Commercial (GC) zoning district.

Applicant/Owner: Star Towers, LLC

Location: 1026 Central Freeway

Ms. Cayce Wendeborn made a motion to approve the case, Mr. Jack Browne seconded. Mr. Fabian Medellin presented the case and stated the petition was to place a 165 ft. in height monopole on the subject property located at 1026 Central Freeway.

Mr. Medellin stated the subject property was located along the I-44 Frontage Road near the Walcott I-44 intersection, which is north of the Iowa Park and I-44 intersection. Mr. Medellin stated currently the lot was vacant with the exception of some unused signage remaining on the property.

Mr. Medellin advised the Commission that the applicant, Star Towers, LLC had worked with staff to present an application that required multiple documents to be submitted along with the application and site plan. The Communication Application itself consists of several required documents, the first being a clearance from the Federal Aviation Administration, followed by a clearance from Sheppard Air Force Base and the City of Wichita Falls Aviation Division. Additional documents required are an authorization letter from the property owner, a notice from the carrier

showing they have attempted to co-locate on other existing towers in the area or other existing structures as well as showing the tower will improve service in the area.

Another required piece of information was engineered documents on the monopole itself and fall characteristics. The communications tower ordinance outlines recommended setback requirements for cell towers, however it does allow for a reduction in those requirements with engineered documents showing fall characteristics. The engineered documents the applicant provided shows the monopole, in the event of structure failure, will not fall but rather crumple and lean at the point of failure with that lean being no more than 30 ft. The site plans shows the monopole is setback a minimum of 30 ft. to ensure that in the event of failure the monopole will remain on-site. There are frontages on the north, west and east sides with a vacant lot to the south.

Staff notified 6 property owners of this proposal and received no responses.

Mr. Medellin stated communication towers are a conditionally allowed in the General Commercial (GC) zoning district. Some of the adjacent districts are Light Industrial (LI) and General Commercial (GC). There are some residential uses and districts to the east, however, those are over 300 ft. away. Staff recommends approval of this request for a 165 ft. communication tower at 1026 Central Freeway with the following conditions:

- A. Obtain all necessary permits and licenses in accordance with city ordinances or adopted building codes.
- B. Any additional site improvements or developmental requirements will be subject to the site plan review process.

Chairman Cook asked if the applicant was present and wished to make a presentation. The applicant, Alan Scivally was present and available for any questions. Chairman Cook asked if there were any other public comments. Mr. Cook closed the case for public discussion and opened it up to the Commission. Chairman Cook asked if there were any other comments. With no comments Chairman Cook called for a vote. The motion passed unanimously with a vote of 8-0.

3. **Case C 21-28 – 1411 North Village Drive:**
Consider taking action on a conditional use to allow a 109 ft. communication tower in a General Commercial (GC) zoning district.

Applicant/Owner: Lindsey Hellinga, Vincent Gerard & Associates
Location: 1411 North Village Drive

Ms. Cayce Wendeborn made a motion to approve the case, Mr. Jack Browne seconded. Mr. Fabian Medellin presented the case and stated this petition was for another cell tower to place a 109 ft. in height monopole on the subject property

located at 1411 North Village Drive. Mr. Medellin stated the staff had worked with Lindsey Hellinga of Vincent Gerard & Associates to discuss the requirements of a cell tower inside city limits found in section 5910 and has submitted a complete application.

Mr. Medellin stated the subject site was located in the northeast part of Wichita Falls, southwest of Sheppard Air Force Base, near the Spur 325 and Burkburnett Road intersection near the main gate of the base. Aerial views showed the property to be vacant, to the east a commercial structure, to the west retail stores, to the north is an undeveloped tract of land and to the south the rear of an undeveloped lot in which the front is used as auto sales.

Along with the Conditional Use Application there are multiple required documents. One of those being a site plan that was submitted and shows the gated monopole location to be in the southeast corner of the subject property. The other supporting documents including FAA, SAFB, and the City Aviation Department Clearance letters, owner authorization, lease agreements, documentation showing the need for the tower in the area to improve service and proof of inability to co-locate to another tower or existing equipment. Mr. Medellin states, similar to the previous case, engineering fall characteristics were submitted for this tower showing in the event of failure the monopole with crumble and lean no more than 30 ft. Corresponding site plan shows a setback of at least 30 ft.

Mr. Medellin advised staff notified 9 property owners of this proposal and received 5 responses, all in favor of the conditional use request. It is noted 4 of the 5 responses were from the owner of the subject property. Staff recommends approval of this request for a 109 ft. communication tower at 1411 North Village with the following conditions:

- A. Obtain all necessary permits and licenses in accordance with city ordinances or adopted building codes.
- B. Any additional site improvements or developmental requirements will be subject to the site plan review process.

Chairman Cook asked if the applicant was present and wished to make a presentation. The applicant, Vincent Hellinga was present and available for any questions. Chairman Cook asked if there were any other public comments. Mr. Cook closed the case for public discussion and opened it up to the Commission. With no comments Chairman Cook called for a vote. The motion passed unanimously with a vote of 8-0.

4. Case C 21-29 – 1400 MLK Boulevard:

Consider taking action on a conditional use to allow for the reinstating of a non-conforming use of a restaurant over 1,200 sq. ft. in a Limited Commercial (LC) zoning district.

Applicant/Owner: Dwight Haywood
Location: 1400 MLK Boulevard

Ms. Cayce Wendeborn made a motion to approve the case, Mr. Jack Browne seconded. Mr. Fabian Medellin presented the case and stated the petition submitted was from Dwight Haywood, a business owner in the community whom in the past has operated restaurants. Mr. Haywood meet with staff at a pre-development meeting to discuss re-occupying a property located at 1400 MLK Boulevard. Currently the structure is vacant but was previously used as a restaurant known as Rae's Rib Shack which ceased operation in 2008.

The subject property is located in the Limited Commercial (LC) district which does allow for restaurants no more than 1,200 sq. ft. This facility has operated as a restaurant under a legal nonconforming status in a commercial structure since the adoption of the zoning ordinance in 1985. With the property being vacant since 2008 the ordinance dictates that the non-conforming use be terminated after two years, however, it does give the Commission the authority to reinstate that non-conforming use.

Mr. Medellin stated, in the pre-development meeting with Mr. Haywood staff outlined the Conditional Use Application process and was advised if he was approved he would be required to bring all other non-conformities into compliance including zoning, health, building and fire codes.

The subject property is located west of Holliday Creek and MLK Boulevard area at the corner of Whitfield and MLK Boulevard. To the east of the property is a car wash and a vacant commercial structure followed by a church. To the north and west are residential uses in a residential district, to the south are commercial uses, containing warehouses, convenience store, strip centers and offices.

Staff, upon receiving the application reviewed this petition for potential impacts and its ability to be in harmony with surrounding uses. The subject site is located on a Martin Luther King Jr. Blvd., a Minor Arterial Street per the City's Thoroughfare Plan. The ability to move traffic to and from a commercial development, as well its visibility is essential for the developments long term survival. The need for services and food availability is one reason why commercial developments are near to a residential area, to serve that specific target area. With the site separated from adjacent residential uses to the west by Whitfield Ln and the north by a vacant lot as well as required screening, the visual and noise impacts will be mitigated through the distances between uses.

With all potential impacts taken into consideration, staff recommends the approval of the proposed reinstatement of the nonconforming use, a restaurant greater than 1,200 sf., at 1400 Martin Luther King Jr. Boulevard subject to the following conditions:

- A. The development is subject to the Site Plan Review Process to obtain a Certificate of Occupancy.

- B. As a part of the site Plan Review Process, the development will be required to meet all applicable zoning, building, health, and fire codes.
- C. The site will be required to bring into conformance the standard materials for all paved parking lot and vehicular maneuvering areas with concrete or hot mixed asphalt per Section 6200.
- D. The site will be required to provide sufficient parking at the rate of 1 per 100 s.f.g.f.a plus one per employee – 19 stalls plus one per employee, as required by Section 6200.
- E. To meet the required parking count, a parking and access agreement recorded with the Wichita County Clerk must be provided to secure the rights for the proposed development to access and park off-site. No more than 50% of the required parking may be provided off site.
- F. The nonconforming landscaping will be brought into compliance as per Section 6800. The site will be required to meet the frontage calculation of 1 tree per 40 ft. - approximately 200 ft of frontage will equal 5 canopy trees. The site will be required to provide parking lot landscaping, should there be more than 20 stalls provided on site, at a rate of 1 landscaped island for every 20 stalls.
- G. The separation of non-residential from residential by way of screening, a 6 ft. privacy fence, shall be included as an element in the Site Plan Review Process, and shall be installed prior to operating as per Section 4600.
- H. The hours of operations shall be limited to no earlier than 6 am and 12 midnight as per Section 3420 – Special Conditions in Limited Commercial District.
- I. The development is subject to all other provisions of Section 6100 – Nonconforming Development.

Chairman Cook asked if the applicant was present and wished to make a presentation. The applicant, Dwight Haywood was present and stated he felt this establishment was needed on the eastside of Wichita Falls because there was nothing open and would be a positive development. Chairman Cook asked if there were any other public comments. Mr. Charles Allen representing Bethlehem Baptist Church located at 1600 MLK Boulevard stated the church congregation was in full support of Mr. Haywood and excited to see this restaurant open as the older patrons would be from his congregation and would be nice to not have to drive across town after church for lunch. With no further comments Mr. Cook closed the case for public discussion and opened it up to the Commission. Chairman Cook asked if there were any other comments. Commission members expressed support and asked what type of food would be served. Chairman Cook called for a vote. The motion passed unanimously with a vote of 8-0.

5. Case C 21-30 – 6743 Southwest Parkway:

Consider taking action on a conditional use to allow a 10 ft. reduction to the interior side setback for an accessory structure in a Single Family 2 Residential (SF-2) zoning district.

Applicant/Owner: Randy & Britany Schmidt

Location: 6743 Southwest Parkway

Ms. Cayce Wendeborn made a motion to approve the case, Mr. Jack Browne seconded. Mr. Fabian Medellin presented the case and stated the owner, Britany Schmidt came into the Building Inspection Department to apply for a permit for an accessory structure, however she was denied at that time due to the proposed carport not meeting the required setback. Currently our ordinance states if the wall height of an accessory structure exceeds 8 feet or the total height exceeds 15 feet, the setback shall be equal to the total height. Mrs. Schmidt is proposing a carport to cover her trailer and the post height would be 10 ft. with an overall height of 15 ft. thus requiring a 15 ft. setback from her side interior lot line. Mr. Medellin stated the ordinance does allow for a reduction in setback should the accessory structure match in character and materials to the primary structure.

The subject property is located on Southwest Parkway, south of the 369 and Kell Boulevard intersection. The subject site is surrounded by residential uses along Southwest Parkway and to the north and the east. To the south is some undeveloped land and to the west located towards the rear of the property is the city limits. Mrs. Schmidt is proposing a 31 ½ ft. X 37 ft. carport that will mimic the residential structure with a shingled roof matching in color to the primary structure. The framing of the roof will be painted black to match the newly painted columns in on the front of the home and garage door. Also, the post for the accessory structure will be wrapped in cedar to match the columns on the home.

Mr. Medellin advised the subject property was in a Single Family-2 (SF-2) zoning district surrounded by residential uses. To the west is unincorporated Wichita County and to the northeast and south is all Single Family-2 (SF-2) zoning designations.

Staff notified 20 property owners within a 200 ft. notification area and received back a total of 2 responses, both in favor of this petition. Staff recommends approval of this request for a reduction of 10 ft. of the interior side required setbacks for an accessory structure at 6743 Southwest Parkway with the following conditions:

1. The plans for the proposed carport must show the following elements to match the features of the primary structure:
 - The metal frame must be shown to be painted in a color matching the primary structure.
 - The posts of the carport must be made of or wrapped by a material matching in color to the columns of the primary structure
 - The roof of the carport must be shingled and matching in color to the primary structure.

2. Further site plan review by planning and building inspections at the time of permitting for construction to verify conformance with all other applicable code and ordinances.

Chairman Cook asked if the applicant was present and wished to make a presentation. The applicant, Britany Schmidt was present and available for any questions. Chairman Cook asked if there were any other public comments. Mr. Cook closed the case for public discussion and opened it up to the Commission. With no comments Chairman Cook called for a vote. The motion passed unanimously with a vote of 8-


IX. OTHER BUSINESS

Updates:

Mr. Terry Floyd gave an update on the Downtown Zoning Realignment project and advised the Commission of the meeting being held, Thursday, December 9th, 2021 at 6 p.m. at the MPEC.

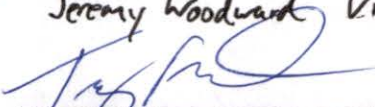
X. ADJOURN

Chairman Cook adjourned the meeting at 2:39 p.m.



David Cook, Chairman1-12-22

Date

Jeremy Woodward Vice-Chairman

Terry Floyd, Director of Development Services1-13-22

Date

LANDMARK COMMISSION MINUTES

December 13th, 2021

MEMBERS PRESENT:

Michele Derr

John Dickinson

Joel Hartmangruber

Andy Lee

Nadine McKown

Marcela Medellin

■ Chairperson

■ Member

■ Member

■ Member

■ Vice-Chairperson

■ Member

Terry Floyd, Development Services Director

Karen Gagné, Planning Administrator

Christal Ashcraft, Development Services Admin. Asst.

■ City Staff

■ City Staff

■ City Staff

ABSENT:

Christy Graham

Noros Martin

Janel Ponder Smith

Tim Brewer

■ Member

■ P&Z Liaison

■ Member

■ Council Liaison

GUESTS:

Jana Schmader, Downtown Wichita Falls Development

Grant Rogers, 711 Indiana Avenue

■ Guest

■ Applicant

I. Call to Order, Welcome and Introductions

Chairperson Michele Derr called the meeting to order at 12:01 p.m. Ms. Derr had Commission members, staff and guests, introduce themselves.

II. Review & Approval of Minutes from: November 23rd 2021

Chairperson Michele Derr called for review and approval of the November 23rd 2021 Landmark Commission meeting minutes. Mr. Andy Lee made a motion to approve the minutes, Ms. Nadine McKown seconded the motion. Minutes were unanimously approved.

III. Unfinished Business & General Orders: – 711 Indiana Avenue (Landmark #36)

- Request to install new signage

Chairperson Michele Derr introduced Agenda Item III as first order of business, the unfinished business of the motion relating to design review for 711 Indiana Avenue.

Ms. Nadine McKown asked permission to withdraw the motion to postpone the determination for 711 Indiana Avenue. Mr. Joel Hartmangruber seconded the motion to withdraw. Motion officially withdrawn with unanimous approval.

Chairperson Michele Derr introduced the review item for 711 Indiana Avenue for a request to install new signage. Ms. Derr turned the floor over to staff. Ms. Karen Gagné presented the case and stated this request was coming back before the Landmark Commission as a revised request for new signage at 711 Indiana Avenue. The subject property is located in the middle of the 700 block of Indiana Avenue, just outside the Depot Square Historic

District. Historic photos were displayed from circa 1906 when the structure was *Gorsline's Fashion Stable* and from 1909 forward where it was used as a commercial business. The circular center architectural feature, which also functions as a vent can be seen in the photo from 1909. Photos were shown from 2006 after the restoration/rehabilitation was completed by Mr. John Dickinson. Ms. Gagné advised the 1909-1925 era building retained over 80% of the original architectural façade elements.

Ms. Gagné stated the applicant's revised wall sign placement/design had the proposed dimensions of 2.17 ft. x 7 ft. (approximately 26 inches x 84 inches). The sign would be installed with an air gap of 1 – 1½ inches and would not cover any key architectural features. Ms. Gagné advised the applicant's proposal appears to follow design guidelines and staff believes this new proposal more closely adheres to what the national standards are for signs and local design guidelines.

Chairperson Derr advised that John Dickinson had recused himself on this proposal due to conflict of interest, filed the required paperwork with the Clerk's office, and will abstain from voting. Ms. Derr asked if there were any questions. Mr. Grant Rogers, the applicant, stated even with Mr. Dickinson having recused himself, still believed John should be able to advise the Commission on the building status since he knew the structure better than anyone else. Mr. Dickinson stated, he believed the new sign design fits well with the building. Commission member, Ms. Marcela Medellin, stated she thought the new design was much improved, however would like the sign still further away from the circular architectural element. Mr. Andy Lee made the motion to approve the design review case as presented for a wall sign 2.17 ft. x 7 ft. installed with an air gap and not covering any architectural features based on the City of Wichita Falls Design Guidelines, Sec. 4 (10-signage) and National Parks Service Technical Briefs #11 & #25. Mr. Joel Hartmangruber seconded the motion which passed unanimously.

IV. Other Business:

a) Monthly Reports

Depot Square:

Ms. Derr had no updates.

West Floral Heights:

Ms. Ponder-Smith was not present to give update.

1512 Tilden

Ms. Gagné stated the homeowner of 1512 Tilden had pulled a demo permit last week as ordered by the City Council and reminded the Commission that City Council orders for demolition supersede any Landmark Commission decision; staff will keep the Commission updated on activity at this location.

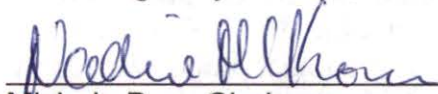
b) Design Review – Staff Authorized – Minor Alteration/Repairs

- 2703 9th St (Morningside Historic District) – electrical permit (solar panels) -
Informational Only

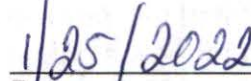
V. Adjourn

Meeting adjourned at 12:15 p.m.

Next regularly scheduled meeting January 25, 2022 - 12p.m.


Michele Derr, Chairperson


Vice-Chair
Nadine McKoon
for Michele Derr


Date

CITY COUNCIL AGENDA
February 1, 2022

ITEM/SUBJECT: Resolution authorizing the City of Wichita Falls' continued participation with the Atmos Cities Steering Committee and authorizing the payment of five cents per capita to the Atmos Cities Steering Committee to fund regulatory and related activities related to Atmos Energy Corporation.

INITIATING DEPT: Legal

STRATEGIC GOAL: Efficiently Deliver City Services

STRATEGIC OBJECTIVE: Practice Effective Governance

COMMENTARY: The Atmos Cities Steering Committee ("ACSC") is composed of 178 municipalities in the service area of Atmos Energy Corporation, Mid-Tex Division that have retained original jurisdiction. Atmos is a monopoly provider of natural gas. ACSC protects the authority of municipalities over the monopoly natural gas provider and defends the interests of residential and small commercial customers within the cities. Although many of the activities undertaken by ACSC are connected to rate cases (and therefore, expenses are reimbursed by the utility), ACSC also undertakes additional activities on behalf of municipalities for which it needs funding support from its members. It is actively involved in appeals, rulemakings, and legislative efforts impacting the rates charged by Atmos within the City. These activities will continue throughout the calendar year. Additional efforts may be necessary on new issues that arise during the year, and it is important that ACSC be able to fund its participation on behalf of its member cities. A per capita assessment has historically been used as the method for the members to bear the burdens associated with the benefits received from the membership.

On December 9, 2021, the Atmos Cities Steering Committee ("ACSC") held a quarterly meeting with representatives from Atmos Energy. During the meeting, the group discussed upcoming natural gas issues and approved the assessment for ACSC membership. Using the population-based assessment protocol previously adopted by ACSC, the assessment for 2022 is a per capita fee of \$0.05. This amount is the same as was adopted for 2019-2021.

☒ **City Attorney**

ASSOCIATED INFORMATION: Resolution

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

Resolution No. _____

Resolution authorizing the City of Wichita Falls' continued participation with the Atmos Cities Steering Committee; and authorizing the payment of five cents per capita to the Atmos Cities Steering Committee to fund regulatory and related activities related to Atmos Energy Corporation

WHEREAS, the City of Wichita Falls is a regulatory authority under the Gas Utility Regulatory Act (GURA) and has exclusive original jurisdiction over the rates and services of Atmos Energy Corporation, Mid-Tex Division (Atmos) within the municipal boundaries of the City; and

WHEREAS, the Atmos Cities Steering Committee (ACSC) has historically intervened in Atmos rate proceedings and gas utility-related rulemakings to protect the interests of municipalities and gas customers residing within municipal boundaries; and

WHEREAS, ACSC is participating in Railroad Commission dockets and projects, as well as court proceedings and legislative activities, affecting gas utility rates; and

WHEREAS, the City is a member of ACSC; and

WHEREAS, in order for ACSC to continue its participation in these activities, which affects the provision of gas utility service and the rates to be charged, it must assess its members for such costs.

NOW, THEREFORE, BE IT RESOLVED that we, the City Council of the City of Wichita Falls, Texas:

1. That the City is authorized to continue its membership with the Atmos Cities Steering Committee to protect the interests of the City of Wichita Falls and protect the interests of the customers of Atmos Energy Corporation, Mid-Tex Division residing and conducting business within the City limits.
2. The City is further authorized to pay its 2022 assessment to the ACSC in the amount of five cents (\$0.05) per capita for a total amount of \$5,343.80.
3. A copy of this Resolution and approved assessment fee payable to "Atmos Cities Steering Committee" shall be sent to:

Brandi Stigler
Atmos Cities Steering Committee
c/o Arlington City Attorney's Office, Mail Stop 63-0300
101 S. Mesquite St., Suite 300
Arlington, Texas 76010

PASSED AND APPROVED this the 1st day of February, 2022.

M A Y O R

ATTEST:

City Clerk

CITY COUNCIL AGENDA
February 1, 2022

ITEM/SUBJECT: Resolution declaring the City owned property located at 3920 Lawrence Rd. also known as Lot 3, Block 214-A, Highland Addition, Wichita Falls, Wichita County, Texas as excess real property and authorizing permission to advertise the property to be offered for sale at sealed bid.

INITIATING DEPT: Property Management

STRATEGIC GOAL: Accelerate Economic Growth

STRATEGIC OBJECTIVE: Look for Post-Pandemic Economic Opportunities

COMMENTARY: The City of Wichita Falls owns the vacant tract of land generally located in front of McAlister's Deli at the corner of Lawrence Rd/Call Field. This 0.71 acre tract was acquired as part of the Lawrence/Rhea Rd realignment project several years ago, but never used, and is zoned for General Commercial use. As the available land in the Lawrence Road commercial corridor has become scarcer the last few years, city staff has been approached several times by commercial developers inquiring about the property. Several years ago, the City Council considered putting the property up for sale; however, there were concerns about the type of development and use of this high-profile property.

City staff including the Assistant City Manager, the City Attorney's office, and Property Management have worked the last few months to draft a set of proposed deed restrictions for the property that would be imposed and enforced if the property were to be sold and private development to occur (see attached, below). In summary, the proposed deed restrictions:

- Would require a commercial business that generates sales tax to occupy the property; and
- Restrict the types of commercial uses, including prohibiting auto care, title/short term lenders, and pawnshops; and
- Prohibit any new driveway access onto either Lawrence and/or Call Field. There are existing access easements to the property from both roads; and
- Allow only certain types of signage, including the prohibition of political advertising; and
- All buildings on the property would be of masonry (brick, stone, CMU, etc) construction.

If the City Council were to approved the marketing of the property, the property will be advertised in the local newspaper, on the City website, the Property Management

website, Facebook and with all local media. Notifications will be sent to all previously interested parties as well as the Wichita Falls Association of Realtors.

If a reasonable bid or bids were to be received, the City Council would then consider such, the possible sale of the property, and the imposition of the mentioned deed restrictions. As required by law, an appraisal of the property has been ordered from an independent certified appraiser and the “fair market value” when determined will set the minimum bid.

Staff recommends approval of the resolution allowing City staff to market the property for sale. Once bids are opened, the City Council would be required to take further action to possibly approve the sale and the imposition of the deed restrictions.

☒ **Asst. City Manager**

☒ **Property Administrator**

ASSOCIATED INFORMATION: Resolution, Plat Map, Property Location Map, Specific Agreements and Restrictions

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

Resolution No. _____

Resolution declaring the City owned property located at 3920 Lawrence Rd. also known as Lot 3, Block 214-A, Highland Addition, Wichita Falls, Wichita County, Texas as excess real property and authorizing permission to advertise the property to be offered for sale at sealed bid

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

WHEREAS, the City desires the property be sold with Specific Agreements and Restrictions; and,

WHEREAS, the City Council of the City of Wichita Falls, deems it reasonable to offer the property located at 3920 Lawrence Road for sale.

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

1. The property located at 3920 Lawrence Road and more specifically described in the attached **Plat Map** and **Property Location Map**, may be offered for sell through the sealed bid process with **Specific Agreements and Restrictions**.

2. The City of Wichita Falls retains the right to refuse any and all bids if they feel the bids are inadequate and do not reflect a good representation of the property value.

PASSED AND APPROVED this the 1st day of February, 2022.

MAYOR

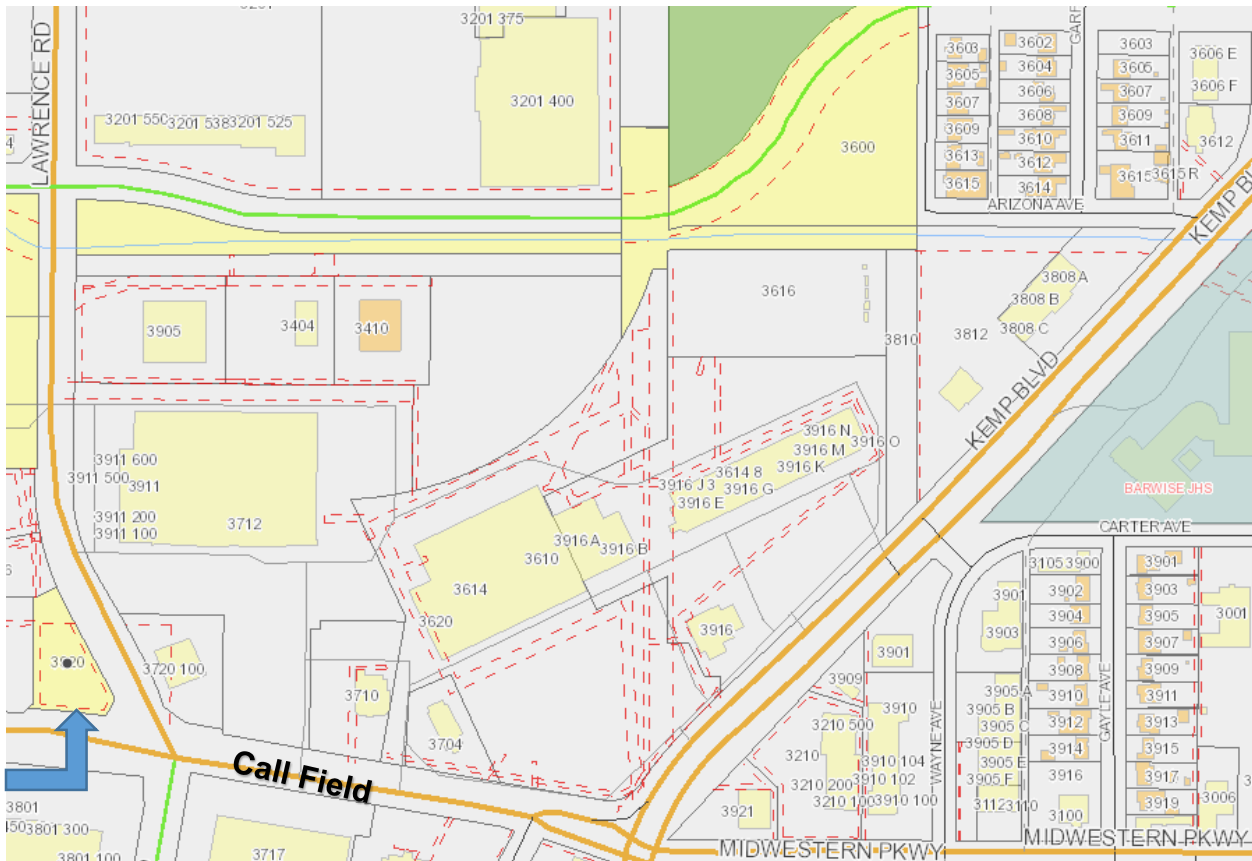
ATTEST:

City Clerk

Plat Map



Property Location Map



SPECIFIC AGREEMENTS AND RESTRICTIONS

1. **Recitals Incorporated.** The above recitals and all of the terms defined in them are incorporated into this Declaration for all purposes.

2. **Definitions.** The term "Owner" means, individually, and the term "Owners" means, collectively, Declarant and all future owners of the fee interest of any portion of the Restricted Property or the Benefited Property (whether the fee interest is obtained through a purchase from Declarant or through a purchase at a foreclosure sale or trustee's sale or through a deed in lieu of foreclosure) and their successors and assigns.

3. **Covenants and Restrictions.** Declarant hereby adopts, establishes and imposes the following covenants, conditions, and other restrictions onto the Property:

a) Sign regulations. All signs on the Property shall be in accordance with the City of Wichita Falls regulations in effect at the time, subject to:

i. No billboard or off-premise advertising of any kind shall be built, placed, or erected on the Property. This restriction is in addition to any other restrictions stated elsewhere in this instrument;

ii. No political advertising shall be allowed on the property or in the adjacent public right-of-way;

iii. Other than real estate or similar type signage advertising the sale or lease of available space on the Property and that is otherwise in compliance with City regulations, the only free-standing signage allowed on the property will be one (1) ground-mounted sign advertising the main uses(s) and/or business contained on the Property with a maximum height measured from the adjacent ground not to exceed eight feet (8.0'). Said ground mounted sign shall be encased in the same masonry material as that of the main structure on the Property. Said ground-mounted sign may be illuminated internally and/or by ground-mounted lights directed away from roadway traffic. "Wind flags" or similar free-standing signs are prohibited.

iv. Banner signs shall be allowed to be placed only on the main structure on the Property;

v. Roof signs or any inflatable signs are prohibited on the Property.

b) Allowed Uses on Property. Residential uses of any kind are prohibited on the property. Property shall be used for commercial purposes only, subject to:

i. The primary use of the property shall be retail-oriented and generate sales taxes as such is defined by Texas Tax Code Section 151.010. Approval of each primary use on the Property not in compliance with this provision 2.a. shall be by majority vote of the City Council;

ii. The following are prohibited uses on the property:

1. Liquor stores
2. Motor vehicle fueling stations
3. Pawn shops
4. Second hand goods stores
5. Payday loan stores
6. Check cashing outlets
7. Title loan businesses

c) **Masonry Construction.** All structures and outbuildings on Property are subject to the following:

i. All structures and outbuildings buildings shall have not less than eighty percent (80%) masonry construction on each exterior wall, excluding doors and windows. Structures do not include sidewalks or parking lots.

ii. For the purposes of the entirety of these deed restrictions, “**masonry**” shall mean and include brick, stone, decorative concrete masonry unit (CMU), or other materials of equal characteristics laid up unit upon unit set and bonded to one another in mortar. Application of said masonry units shall be allowed as a veneer so long as the same standards are met.

iii. Solid waste containers on the property shall be screened on at least three (3) sides by a masonry wall;

iv. Masonry shall remain unpainted upon and in its original state in perpetuity.

d) **Access Points.** Additional driveways from Property onto Lawrence Road or Call Field Road are prohibited and access onto Lawrence Road is limited to the existing mutual access easement.

4. Enforcement. If any person, persons, corporation, or entity of any other character violates or attempts to violate the restrictions set forth in Paragraph 3, it will be lawful for Declarant to prosecute proceedings at law or in equity against the person, persons, corporation, or entity. Any action taken to enforce the restrictions set forth in this Declaration will be at the sole cost and expense of the party initiating the action. However, in any legal or equitable proceeding for the enforcement or to restrain the violation of the restrictions, each party shall waive the collection of attorney's fees. All remedies provided in this Declaration or at law or in equity will be cumulative and not exclusive.

5. Partial Invalidity. If any part of this Declaration is declared invalid, by judgment or

court order, it will in no way affect any of the other provisions of this agreement, and the remaining portion of this agreement will remain in full effect.

6. Waiver. If at any time the Benefited Parties fail to enforce this Declaration, whether or not any violations of it are known, the failure will not constitute a waiver or estoppel of the right to enforce it.

7. Duration. The provisions of this Declaration will remain in full force and effect until the twenty-fifth anniversary of the Effective Date ("Initial Term Termination Date"), and will be extended automatically after that for successive ten-year (10-year) periods; however, this Declaration may be terminated on the Initial Term Termination Date, or on the commencement of any successive ten-year (10-year) period, by filing for record in the Real Property Records of Wichita County, Texas, an instrument in writing signed by all Owners of the Benefited Property.

8. Modification; Termination. This Declaration may be modified, amended, or terminated only by a written instrument that is (a) executed by both the Owner of the Restricted Property subject to the modification, amendment, or termination and the Declarant, and (b) filed and recorded in the Real Property Records of Wichita County, Texas.

9. Binding Agreement. This Declaration and all of its terms, provisions, and covenants run with the Restricted Property and will apply to, be binding on, and inure to the benefit of the parties and their respective heirs, executors, legal representatives, and assigns. When the context requires, singular nouns and pronouns include the plural.

EXECUTED as of _____, 2022

DECLARANT:

Darron J. Leiker
City Manager

Attest:

City Clerk

Approved as to form:

City Attorney

CITY COUNCIL AGENDA
February 1, 2022

ITEM/SUBJECT: Resolution authorizing the City Manager to make application for a non-matching grant from the Office of the Governor, Public Safety Office, Homeland Security Grants Division in the amount of \$73,839.00.

INITIATING DEPT: Police

STRATEGIC GOAL: Efficient Delivery of City Services

STRATEGIC OBJECTIVE: Practice Effective Governance

COMMENTARY: The Office of the Governor, Public Safety Office, Homeland Security Grants Division, has opened the application period for grants from the 2022 State Homeland Security Program – LETPA Projects (SHSP-L), Grant Number 4466201. The Wichita Falls Police Department requests to apply for a grant totaling \$73,839.00. Grant funding will be used to upgrade and replace equipment for the Department's Special Operations Section. Special Operations will purchase and outfit 2 Police Units with a 4-camera Mobile License Plate Reader (LPR) System from Vigilant Solutions (\$58,000.00); grant funding will be used to purchase a Pole Camera from Crime Point (\$8,999.00); grant funding will also be used to purchase surveillance equipment (\$6,840.00).

Staff recommends approval of the resolution.

☒ **Police Chief**

ASSOCIATED INFORMATION: Resolution

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

Resolution No. _____

Resolution authorizing the City Manager to make application for a non-matching grant from the Office of the Governor, Public Safety Office, Homeland Security Grants Division in the amount of \$73,839.00

WHEREAS, the City of Wichita Falls is eligible to apply for a non-matching grant, from the Office of the Governor, Public Safety Office, Homeland Security Grants Division, 2022 State Homeland Security Program – LETPA Projects (SHSP-L), in the amount of \$73,839.00; and,

WHEREAS, the Wichita Falls City Council finds it in the best interest of the citizens of Wichita Falls, that the Homeland Security Grants Division Program be operated for FY 2022; and,

WHEREAS, the Wichita Falls City Council agrees that in the event of loss or misuse of funding from the Office of the Governor, the Wichita Falls City Council assures that the funds will be returned to the Office of the Governor in full; and,

WHEREAS, the Wichita Falls City Council designates Darron Leiker, City Manager, as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

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

The City Manager is hereby authorized to make application for a non-matching grant from the Office of the Governor, Public Safety Office, Homeland Security Grants Division, 2022 State Homeland Security Program – LETPA Projects (SHSP-L), Grant Number 4466201, in the amount of \$73,839.00.

PASSED AND APPROVED this the 1st day of February, 2022.

MAYOR

ATTEST:

City Clerk

CITY COUNCIL AGENDA
February 1, 2022

ITEM/SUBJECT: Resolution authorizing the submittal of a grant application and designation of Authorized Official to the State Homeland Security Grant Program via the Office of the Governor for Position Specific Training.

INITIATING DEPT: Fire

STRATEGIC GOAL: Efficiently Deliver City Services

STRATEGIC OBJECTIVE: Practice Effective Governance

COMMENTARY: The City Emergency Preparedness Office would like to make application to the State Homeland Security Grant Program through the Office of the Governor for the delivery of Position Specific Training from the Texas A&M Forest Service in the amount of \$25,000.00 (Grant/App:4423601). We are applying for Incident Management Team/EOC Management training. The Texas A&M Forest Service will provide National Incident Management System qualified instructors using FEMA/USFA approved curriculum. Texas A&M Forest Service will provide direct instruction to students enrolled in the course. This resolution also designates Jessica Williams, Director of Finance as the grantee's authorized official.

☒ **Fire Chief**

ASSOCIATED INFORMATION: Resolution

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

Resolution No. _____

Resolution authorizing the submittal of a grant application and designation of Authorized Official to the State Homeland Security Grant Program via the Office of the Governor for Position Specific Training

WHEREAS, The City Council finds it in the best interest of the citizens of Wichita Falls to host Incident Management Team training utilizing grant funding (Grant/App: 4423601) for the FY2022 Homeland Security Grant Program; and,

WHEREAS, The City Council agrees to provide applicable matching funds for the said project as required by the State Homeland Security Grant Funding application; and,

WHEREAS, The City Council agrees that in the event of loss or misuse of the Office of the Governor funds, the City Council assures that the funds will be returned to the Office of the Governor in full; and,

WHEREAS, The City Council designates Jessica Williams, Director of Finance, as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

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

The City Council approves submission of the grant application and designation of the Authorized Official for the Position Specific Training (Grant/App:4423601) to the Office of the Governor.

PASSED AND APPROVED this the 1st day of February, 2022.

MAYOR

ATTEST:

City Clerk

CITY COUNCIL AGENDA
February 1, 2022

ITEM/SUBJECT: Resolution authorizing the City Manager, or his designee, to make application to FEMA for the FY 2021 Staffing for Adequate Fire and Emergency Response (SAFER) in the amount of \$1,252,933.80 to allow for the hiring of up to 6 new firefighters. Successful applicants are not required to provide any match.

INITIATING DEPT: Fire

STRATEGIC GOAL: Efficiently Deliver City Services

STRATEGIC OBJECTIVE: Practice Efficient Governance

COMMENTARY: The fire department would like to make application through FEMA for the FY 2021 Staffing for Adequate Fire and Emergency Response (SAFER) in the amount of \$1,252,933.80 to allow for the hiring of up to 6 new firefighters. The Staffing for Adequate Fire and Emergency Response (SAFER) is funded through federal legislation on an annual basis. Although we have not made a strategic decision to increase fire department staffing, this will be the only application period available to us before we begin our FY 2023 budget discussions.

Under the SAFER program guidelines, FEMA will cover all salary and benefit costs associated with new firefighters for a three-year period without any local match. If we were to decide to increase staff, this could allow us to do so with no salary or benefit cost for the first three years. The city would remain responsible for providing personal protection equipment and uniforms.

There are two primary reasons for considering additions to staff; the reduction of overtime and the staffing of single-company engines that do not comply with federal and state mandated “two-in, two-out” standards.

The grant application process is a competitive process, based upon size of community, call volume and articulated need. There are no assurances that we would receive the grant, nor that we would be awarded the full amount. The anticipated grant award date would be on or after June 1, 2022 allowing us several months to analyze the need and implications of accepting the grant. The performance period for the grant is June 2022 through May 2026. The city would retain the right to reject the grant if offered. The city would have no obligation to keep the additional firefighters after the three-year performance period.

Staff recommends approval of the resolution.

☒ **Fire Chief**

ASSOCIATED INFORMATION: Resolution

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

Resolution No. _____

Resolution authorizing the City Manager, or his designee, to make application to FEMA for the FY 2021 Staffing for Adequate Fire and Emergency Response (SAFER) in the amount of \$1,252,933.80 to allow for the hiring of up to 6 new firefighters. Successful applicants are not required to provide any match

WHEREAS, The City Council finds it in the best interest of the citizens of Wichita Falls that the FY 2021 Staffing for Adequate Fire and Emergency Response (SAFER) be applied for through FEMA.

WHEREAS, if awarded, FEMA shall reimburse the city for 100% of all salaries and benefits of up to six (6) new firefighters for the first three years of employment without any requirement that the City provide matching funds.

WHEREAS, The City Council agrees that in the event of loss or misuse of the Staffing for Adequate Fire and Emergency Response Grant funds, the City Council assures that the funds will be returned to FEMA in full.

WHEREAS, The City Council retains the right to reject some or all of the award if granted.

WHEREAS, The City Council authorizes the City Manager to apply for the Staffing for Adequate Fire and Emergency Response grant on behalf of the applicant agency.

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

The City Council approves submission of the grant applications for the FY 2021 Staffing for Adequate Fire and Emergency Response (SAFER).

PASSED AND APPROVED this the 1st day of February, 2022.

MAYOR

ATTEST:

City Clerk

CITY COUNCIL AGENDA
February 1, 2022

ITEM/SUBJECT: Resolution authorizing the City Manager to execute all documents necessary to renew the contract for the Innoculate software management services from Luminare Inc. in the amount of \$100,000.

INITIATING DEPT: Health

STRATEGIC GOAL: Efficiently Deliver City Services

STRATEGIC OBJECTIVE: Practice Effective Governance

COMMENTARY: During the recovery phase of the pandemic, the Health Department has been tasked with providing vaccines to the public in a safe and effective manner.

INNOCULATE by Luminare is designed for public health systems as an end- to-end solution to manage a high volume of vaccinations. We began utilizing this system in January of 2021. The system has performed well and has been a vital tool in our COVID vaccination clinics. The system enables automated registration, qualification, and scheduling of vaccinations. Manages scheduling based on available hours and capacity. The system is able to document and track all vaccine batcha and lot information, and inoculations. Certifies proof of vaccination. The system provides hospital grade data security, data insights and reporting. The system has HL7 Integration and APIs for integrating with drug manufacturers, pharmacies and health department systems, and business intelligence tools. The system also has an administrative dashboard. The user, via a website or phone app, accesses the system.

For those individuals either who do not have access to either of those or who have difficulty registering we either register those individuals over the phone or we are able to register them on site at time of vaccination.

This contract represents a 29-month project period. Feb 2, 2022 through Feb 1, 2023 and Feb 2, 2023 to June 1, 2024. The annual renewal for each contract period is \$50,000 for a total cost of \$100,000. The renewal was included in our COVID Immunizations Round 3 grant. This contract is in alignment with the immunization contract to allow for payment of service according to grant guidelines.

City staff recommends approval of the contract of the Luminare Innoculate program.

☒ Health Director

ASSOCIATED INFORMATION: Resolution

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

Resolution No. _____

Resolution authorizing the City Manager to execute all documents necessary to renew the contract for Innoculate software management services from Luminare Inc. in the amount of \$100,000

WHEREAS, we are currently in the recovery phase of a global pandemic and need to be able to vaccinate individuals in a safe, effective and efficient manner; and,

WHEREAS, the Health District has utilized the Innoculate management system for the past year and both parties desire to renew the contract,

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

The City Manager is authorized to execute all documents necessary to enter into a contract with Luminare INC. in the amount of \$100,000

PASSED AND APPROVED this the 1st day of February, 2022.

MAYOR

ATTEST:

City Clerk

CITY COUNCIL AGENDA
February 1, 2022

ITEM/SUBJECT: Resolution authorizing the execution of a Memorandum of Agreement between the City of Wichita Falls and Robert McBroom MD, FACP for the Provision of Medical Services to the Wichita Falls-Wichita County Public Health District.

INITIATING DEPT: Health

STRATEGIC GOAL: Efficiently Deliver City Services

STRATEGIC OBJECTIVE: Practice Effective Governance

COMMENTARY: Under this contractual agreement, Dr. McBroom, will serve as the Medical Director for the Health District and Health Authority for Wichita County. As detailed in “Exhibit A” of the contract, the Medical Director duties include responsibilities for three types of clinics held at the Health Department: Tuberculosis (TB), Sexually Transmitted Infections (STI), and Immunizations. TB clinic is held weekly, with the average time required in clinic at four hours per week; additionally, phone consultation with patients, issuing of medical orders, as well as reviewing of x-rays, lab reports and charts are necessary for the provision of care. STI clinics are held each day by Public Health Nursing staff. Dr. McBroom will provide medical oversight, to include chart and lab review, consultation on all syphilis cases and any deviation from normal protocol. Immunization clinics are held each day by Public Health Nursing staff. Dr. McBroom will provide medical oversight, to include consults for unusual circumstances. Additional duties include annual updates and review of all policies and procedures, as well as Quality Assurance reviews, which are to be performed annually for each clinic. The Health Department will provide an office for Dr. McBroom. The Health Department does bill for certain services under the physician’s oversight.

As detailed in “Exhibit B” of the contract, Dr. McBroom will also be responsible for meeting the requirements for Health Authority as set out in Section 121.024 of the Texas Health and Safety Code. These duties include establishing, maintaining and enforcing quarantine within the jurisdiction; working with Health Department staff to conduct disease outbreak investigations and control mechanisms, to include communication and education of the public, as necessary, and notification of appropriate Department of State Health Services staff.

As the Local Health Authority, Dr. McBroom must be available twenty-four hours a day, seven days a week, either in person or by phone, to Health Department staff for emergency situations. He will also be required to attend annual Health Authority training and must receive a minimum of six Continuing Medical Education (CME) hours directly related to Public Health Emergency Preparedness.

The contract period is from October 1, 2021 to September 30, 2022. With the ability to renew unless either party gives 30 day cancellation notice. The amount to be paid in this contract is \$100,000 annually (\$8,333.33 per month). These monies have been budgeted for in the FY 21/22 City annual operating budget.

Staff recommends approval of the resolution.

☒ **Director of Health**

ASSOCIATED INFORMATION: Resolution

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

Resolution No. _____

**Resolution authorizing the execution of a Memorandum of Agreement
between the City of Wichita Falls Robert McBroom, MD, FACP for the
Provision of Medical Services to the Wichita Falls-Wichita County
Public Health District**

WHEREAS, the Health District provides, a TB clinic, a sexually transmitted disease clinic, and an immunization clinic; and,

WHEREAS, the Health District and Dr. McBroom desire to enter into a contract for the provision of Medical Director and Health Authority.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT: The Memorandum of Agreement, a copy of which is attached hereto, by and between the City of Wichita Falls and Robert McBroom, MD, FACP for the provision of medical services for the Wichita Falls-Wichita County Public Health District, is hereby approved, and the City Manager is authorized to execute said Agreement on behalf of the City of Wichita Falls.

PASSED AND APPROVED this the 1st day of February 2022.

M A Y O R

ATTEST:

City Clerk

MEMORANDUM OF AGREEMENT

This Agreement is made and entered into by and between Robert McBroom M.D., FACP., and the City of Wichita Falls, Texas, a home rule municipal corporation, hereinafter referred to as "City," by and through the Wichita Falls-Wichita County Public Health District, hereinafter referred to as "District" to be effective upon approval of the Wichita Falls City Council and subsequent execution by the Wichita Falls City Manager or his designee.

W I T N E S S E T H :

WHEREAS, the District recognizes the need to retain professional medical services to meet the needs of programs identified in Exhibit "A" and incorporated herein; and

WHEREAS, the District needs the assurance of an established continuous source for the provision of health care to meet the aforementioned needs of the District; and

WHEREAS, Dr. McBroom is legally qualified to practice medicine under the laws of the State of Texas; and

WHEREAS, Dr. McBroom, was previously appointed as Medical Director and

WHEREAS, the Local Public Health Reorganization Act, Chapter 121 Health and Safety Code, and Texas Board of Health Rule, 25 Tex. Admin. Code §85.3, require the appointment and service of a Health Authority; and

WHEREAS, the District recognizes the need to retain professional services to meet the requirements for Health Authority as described in Exhibit "B" and incorporated herein; and

WHEREAS, Dr. McBroom, an independent physician was previously appointed as Health Authority and said Physician meets the requirements of Section 121.022 of the TEXAS HEALTH AND SAFETY CODE and is willing to render professional services for the District as provided herein.

NOW, THEREFORE, City hereby engages the services of Dr. McBroom, and in consideration of the mutual promises herein contained, the parties agree as follows:

I. SCOPE OF WORK

The scope of work and responsibilities and requirements are included but are not limited to those set out in Exhibits "A" and "B" attached hereto and made a part hereof for all purposes, which are intended as guidelines and may be amended by mutual agreement.

II. TERM

The term of this Agreement shall begin on October 1, 2021, ending on September 30, 2023. This agreement shall automatically renew for an additional two-year term unless terminated as provided herein.

III. MEDICAL DIRECTOR

3.01 Medical Director. Dr. McBroom will serve as Medical Director for the District providing medical direction and quality control of medical services for the District Director and staff including but not limited to those services set forth in Exhibit "A". The Medical Director is responsible to the District Director and will work in cooperation with the District Director.

3.02 Health Authority. Dr. McBroom has been appointed as Health Authority and will serve the District by carrying out the duties as included but not limited to those set out in Exhibit "B". Health Authority is responsible to the District Director and will work in cooperation with the District Director and will provide assistance in ensuring adherence to state and local laws relating to public health. Health Authority will perform all duties of a Health Authority as provided by law and has taken and subscribed to the official Health Authority oath and filed a copy of the oath and appointment with the Texas Board of Health as required by Chapter 121 of the Health and Safety Code and according to Article I of this Agreement.

IV. COMPENSATION/OWNERSHIP OF DOCUMENTS

4.01 Compensation. In consideration for the services to be rendered under this Agreement, including all expenses, Dr. McBroom shall be paid a fee not to exceed \$100,000 annually to be paid in a monthly sum of \$8,333.33. It is agreed by Dr. McBroom, and the City that in consideration of the aforementioned monthly stipend, Dr. McBroom shall conduct on a weekly basis a Tuberculosis Clinic as a part of the services to be rendered pursuant to this agreement. The Tuberculosis Clinic shall be conducted at no additional cost to the City. Dr. McBroom may invoice City on a monthly basis.

4.02 Fiscal Funding. Dr. McBroom and the City recognize that the continuation of any Agreement after the close of any given fiscal year of the City of Wichita Falls, which fiscal year ends on September 30 of each year, shall be subject to Wichita Falls City Council approval. In the event the Wichita Falls City Council does not approve the appropriation of funds for this

Agreement, the parties agree the Agreement shall terminate at the end of the fiscal year for which funds were appropriated, and the parties shall have no further obligations hereunder.

4.03 Maximum Compensation upon Termination by City or Professional. In the event of termination by City, with or without cause, Dr. McBroom shall be compensated only for the months prior and the month in which the termination occurred. Financial compensation will not occur for any month beyond termination.

4.04 Ownership of Documents. Notwithstanding any provision herein to the contrary, all client or patient records created as a result of the District's services shall be the property of the District. After termination of the Agreement, Dr. McBroom will be provided access to and copies of patient records upon request and in compliance with HIPAA regulations.

V.

SUCCESSORS AND ASSIGNS/AGENTS OR ASSISTANTS

5.01 Successors and Assigns. City and Dr. McBroom each bind themselves, their successors, executors, administrators and assigns to the other party to this Agreement. Neither City nor Dr. McBroom will assign, sublet, subcontract or transfer any interest in this Agreement without the written consent of the other party. No assignment, delegation of duties, or subcontract under this Agreement will be effective without the written consent of City. Subject to the provision regarding assignment, this Agreement shall be binding on the administrators, legal representatives, successors, and assigns of the respective parties.

5.02 Use of Agents, Servants, Employees, or Independent Contractors. Subject to the foregoing, to the extent reasonably necessary for Dr. McBroom to perform his duties hereunder, Dr. McBroom may engage, at the sole expense of Dr. McBroom, the services of any agents, servants, employees or independent contractors which it may deem proper, and it may further employ, engage, or retain the services of such other persons or corporations to aid or assist it in the proper performance of its duties. The cost of the services of such agents, servants, employees, or independent contractors shall be borne by Dr. McBroom at his sole cost and expense. Dr. McBroom further agrees that the subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve Dr. McBroom from his full obligations to City as provided by this Agreement, regardless of whether such subletting is agreed to by City.

All out-of-pocket expenses are to be borne by Dr. McBroom, with an exception for materials set forth in Exhibit "A" attached.

It is expressly understood and agreed that any agent, servant, employee, or independent contractor retained or employed by Dr. McBroom is the agent, servant, or other employee of independent contractor of Dr. McBroom and that he shall be solely responsible for the acts and omissions of such person or entity to the exclusion of the City. It is expressly agreed that City has no right of control over any agent, servant, employee or independent contractor.

VI.
FACILITIES

Facilities. The City shall cooperate with Dr. McBroom by providing available space for meetings, medical evaluation and treatment, and administrative space as mutually agreed upon at the District.

VII.
INSURANCE AND CERTIFICATES OF INSURANCE

Dr. McBroom shall obtain, at his own expense, Professional Errors, and Omissions insurance, which will pay for injuries arising out of errors or omissions in the rendering, or failure to render, professional services under the Agreement, for the term of the Agreement and up to two years after the Agreement is terminated, with limits of \$200,000/\$600,000 per occurrence/aggregate. Dr. McBroom shall not start work under this Agreement until he has obtained at his own expense all of the insurance required hereunder, and such insurance has been approved by the City of Wichita Falls Legal Department. Any subcontractor of Dr. McBroom shall be required to carry the same insurance as Dr. McBroom. To establish procurement of Professional Errors and Omissions insurance, Dr. McBroom shall not work under this Agreement until (1) he has furnished to the City a Certificate of Insurance, and (2) the insurance has been approved by the Legal Department of the City of Wichita Falls. It is the express duty of Dr. McBroom to notify the District of any change in the Professional Errors and Omissions insurance coverage affecting any physician providing medical services pursuant to the provisions of this Agreement. Such notice shall be in writing and furnished to the City Manager, City of Wichita Falls, Texas, P.O. Box 1431, Wichita Falls, Texas 76307, within five (5) business days of Dr. McBroom's receipt of notice of change.

VIII.
INDEPENDENT CONTRACTOR

Dr. McBroom covenants and agrees that he is an independent contractor and not an officer, agent, servant or employee of City; that Dr. McBroom shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors, and consultants; that the doctrine of *respondeat superior* shall not apply as between City and Dr. McBroom, his contractors, subcontractors, and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Dr. McBroom .

IX.
GOVERNMENTAL FUNCTION CLAUSE

All parties agree that this contract is one wherein the City is solely performing a governmental function. All parties expressly agree that the City is not engaging in any propriety functions.

X. TERMINATION

10.01 Option. Either party may, at its option, without cause, and without prejudice to any other remedy it may be entitled to at law, in equity, or otherwise under this Agreement, terminate further work under this Agreement, in whole or in part, by giving at least thirty (30) days prior written notice.

10.02 Cause. With written notice, City reserves the right to terminate this Agreement upon breach of any term or provision of this Agreement by Dr. McBroom; or if at any time during the term of this Agreement, Dr. McBroom shall fail to commence the work in accordance with the provisions of the Agreement or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Agreement, or fail to use an adequate number or quality of personnel or equipment to complete the work or fail to perform any of its obligations under this Agreement. If Dr. McBroom has taken reasonable steps to cure any such default after written notice thereof, this Agreement shall continue and not terminate presuming the default is cured within a reasonable time period. Any such act by City shall not be deemed a waiver of any other right or remedy of City nor shall this section invalidate or supersede any other section of this Agreement.

10.03 Costs. If after exercising any remedy provided herein, the cost to City of the performance of the balance of the work is in excess of that part of the Agreement sum that has not therefore been paid to professional hereunder, Dr. McBroom shall be liable for and shall reimburse City for such excess.

XI. EQUAL OPPORTUNITIES

Dr. McBroom shall not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, disability, ancestry, national origin or place of birth.

XII. APPLICABLE LAW

Dr. McBroom shall at all times observe and comply with all federal, state and local laws, ordinances and regulations, which in any manner affect Dr. McBroom or the work, and shall indemnify and save harmless City against any claim arising from the violation of any such laws, ordinances and regulations by Dr. McBroom. If Dr. McBroom observes that the work is at variance therewith, Dr. McBroom shall promptly notify City in writing. If Dr. McBroom performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to City, Dr. McBroom shall bear all costs arising therefrom.

XIII.
SEVERABILITY

The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held to be contrary to the law or contrary to any rule or regulation having the force and effect of the law, such decision shall not affect the remaining portions of the Agreement.

XIV.
NON-WAIVER

It is expressly understood and agreed that, in the execution of this Agreement, City does not waive nor shall City be deemed hereto to have waived any immunity or defense that would otherwise be available to it. It is further agreed that one or more instances of forbearance by City in the exercise of its rights herein shall in no way constitute a waiver thereof.

XV.
DRUG-FREE WORKPLACE

Dr. McBroom shall be subject to the drug-free workplace requirements as set forth by the City of Wichita Falls.

XVI.
SMOKE-FREE ENVIRONMENT

Dr. McBroom shall at all times prohibit the use of tobacco products, whether smoking or smokeless, within any and all space occupied or used by him pursuant to this Agreement.

XVII.
BREACH OF OBLIGATION

This Agreement is entire as to all of the services to be rendered under it. Breach of any obligation to be performed shall constitute a breach of the entire Agreement and shall give the non-breaching party the right to terminate this Agreement.

XVIII.
CONTRACTUAL DAMAGES LIMITATIONS

All parties agree that damages in this contract are limited only to those authorized under Texas Local Government Code Section 271.153. Specifically, the City is not liable for consequential damages or exemplary damages.

XIX.
WAIVER OF ATTORNEY'S FEES

If any action at law or in equity is necessary to enforce this Agreement, each party agrees to pay its own attorneys' fees and will not seek to recover its own attorneys' fees from the other party. Dr. McBroom understands that Texas Local Government Code subchapter I, §271.153(a)(3) provides that the total amount of money awarded in an adjudication brought against a governmental entity for breach of a contract includes attorneys' fees. Both Dr. McBroom and City expressly waive all statutory rights to recover attorneys' fees pursuant to §271.153(a)(3) and all other law.

XX.
GOVERNING LAW AND VENUE

The parties agree that any legal action regarding this Agreement or its provisions shall be brought in District Court in Wichita County, Texas, and both parties consent to the jurisdiction of such courts and waive any objections to such jurisdiction.

XXI.
PARAGRAPH HEADINGS

The descriptive headings of the several Articles, Sections and Paragraphs contained in this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of any of the provisions hereof.

XXII.
ENTIRE AGREEMENT

This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating to the subject matter of this Agreement, which is not contained herein, shall be valid or binding. The parties agree that this Agreement and its attachments constitute the entire understanding of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

Date: _____

By: _____

Robert McBroom, M.D., FACP
3005 Lansing Blvd #130
Wichita Falls, Texas 76309

Date: _____

By: _____

Darron J. Leiker, City Manager
P. O. Box 1431
Wichita Falls, Texas 76307

Approved as to Form:

Attest:

City Attorney

City Clerk

EXHIBIT "A"

MEDICAL DIRECTOR

Tuberculosis Clinic

Contractor Responsibilities

- Conduct weekly TB clinic (average time required in clinic per week four (4) hours)
- Admit patients to service
- Physical examination of patients
- Review chest x-rays
- Review lab reports
- Issue medical orders for treatment, diagnostic testing and referral if necessary
- Chart review on enrolled patients
- Review and approve District protocols and policies annually
- Phone consultation between clinics concerning urgent lab reports and medication reactions
- Participate in annual Quality Assurance review by attending meeting and actively participating in review process

Health District Responsibilities:

- Supply adequate staff, equipment and supplies to maintain clinical and surveillance activities
- Administer and read TB skin test according to established protocols
- Perform contact investigation and follow up for each identified case
- Prepare charts for clinics to ensure all labs and needed x-rays are ready for physician review
- Prepare clients for physician including initial interview, obtain vital signs, height weight and vision screen
- Perform all lab draws
- Monitor all DOT clients for signs and symptoms of medication reaction or toxicity
- Client education concerning disease process and medication
- Provide translators for non-English speaking clients
- Provide TB medications and vitamins through state program
- Conduct annual Quality Assurance review

Sexually Transmitted Infection Clinic

Contractor Responsibilities

- Review lab results (Includes both in-office and phone consultations)
- Chart review (Physician must review all client records)
- Phone consult on all syphilis cases, any deviation from normal protocol and any child under the age of 14

- Review and approve District protocols and policies annually
- Participate in annual Quality Assurance review by attending meeting and actively participating in review process.
- Provide one STI clinic weekly

Health District Responsibilities

- Supply adequate staff, equipment and supplies to manage STD clinic
- Perform exams according to approved protocols for all patients and consult with physician when medically appropriate
- Perform all lab draws
- Educate client concerning high-risk behaviors, disease process, treatment and medications
- Provide translators for non-English speaking clients
- Ensure appropriate space for physician to review charts
- Conduct annual Quality Assurance review

Immunization Clinic

Contractor Responsibilities

- Phone consults for unusual circumstances and variance reports
- Review and approve District protocols and policies annually
- Participate in annual Quality Assurance review by attending meeting and actively participating in review process

Health District Responsibilities

- Provide education to all clients receiving immunization
- Consult with physician regarding any protocol variance or untoward incident related to vaccine administration
- Insure proper consent is received for immunizations
- Insure Immunizations are given according to policy and procedure
- Conduct annual Quality Assurance review

Billing

- Provide assistance to Health District in billing for services provided under this contract to third party insurance providers.

Pharmacy

Contractor Responsibilities

- Annual formulary review

EXHIBIT "B"

HEALTH AUTHORITY

The Foundation shall comply with the provisions of V.T.C.A., Health and Safety Code §121.024 and as it may be amended from time to time, which at the time of the execution of this Agreement provides:

§121.024 Duties

- (a) A health authority is a state officer when performing duties prescribed by state law.
- (b) A health authority shall perform each duty that is:
 - (1) necessary to implement and enforce a law to protect the public health; or
 - (2) prescribed by the board.
- (c) The duties of a health authority include:
 - (1) establishing, maintaining, and enforcing quarantine in the health authority's jurisdiction;
 - (2) aiding the board in relation to local quarantine, inspection, disease prevention and suppression, birth and death statistics, and general sanitation in the health authority's jurisdiction;
 - (3) reporting the presence of contagious, infectious, and dangerous epidemic diseases in the health authority's jurisdiction to the board in the manner and at the times prescribed by the board;
 - (4) reporting to the board on any subject on which it is proper for the board to direct that a report be made; and
 - (5) aiding the board in the enforcement of the following in the health authority's jurisdiction:
 - (A) proper rules, requirements, and ordinances;
 - (B) sanitation laws;
 - (C) quarantine rules; and
 - (D) vital statistics collections.

Dr. McBroom, the Health Authority, shall be available twenty-four hours a day, seven days a week, either in person or by phone to any emergency personnel who may be exposed to a contagious disease while performing his or her duty, to make a determination as to whether mandatory testing for a contagious disease should be initiated.

In addition, Dr. McBroom shall attend annual Health Authority training and will be responsible for ensuring they receive a minimum of 6 CME hours directly related to Public Health Emergency Preparedness. Certificate of Attendance to the LHA training and CME training should be submitted to the Director of the Health District no later than 30 days prior to the end of the contract period.

Signed by: _____

CITY COUNCIL AGENDA February 1, 2022

ITEM/SUBJECT: Resolution authorizing the Mayor to execute an Interlocal Agreement with the Wichita Falls Economic Development Corporation for reimbursement of water and sewer improvements serving the Wichita Falls Business Park.

INITIATING DEPT: Legal

STRATEGIC GOAL: Provide Quality Infrastructure

STRATEGIC OBJECTIVE: Alternative Options for Infrastructure Improvements

COMMENTARY: This project is for water and sewer improvements serving the Business Park on the City's southeast side. These improvements include approximately 4,340 feet of water main and 3,700 feet of sewer main along Midwestern Parkway and extension of the sewer collection extending off-site to accommodate future development within the business park. These improvements will provide improved and additional infrastructure, making the business park a "shovel-ready" location for future industrial prospects.

Project Timeline

- October 15, 2020 – WFEDC Board approves an up to \$1.5M expenditure for design and engineering services related to the proposed project at the WFEDC-owned business park;
- November 3, 2020 – City Council approves budget amendment facilitating the up to \$1.5M expenditure;
- November 19, 2020 – WFEDC Board (1) awards design and engineering contract to Biggs & Matthews, Inc. in an amount not to exceed \$995,000, and (2) awards a contract for geotechnical work to Texoma Engineering Services in an amount not to exceed \$23,110;
- December 8, 2020 – WFEDC Board (1) hears presentation from City's finance and bond team related to propose revenue bond, (2) and provides general direction to City staff to move forward with administrative work related to a potential revenue bond to be considered at a later date;
- March 18, 2021 – WFEDC Board by unanimous vote approves Parameters Resolution, authorizing the sale of ~\$10.0M revenue bonds by the Corporation;
- April 6, 2021 – City Council approves Parameters Ordinance, effectively authorizing the sale of revenue bonds by the WFEDC for the Business Park Improvement Project;
- June 17, 2021 – WFEDC awards bid and contract for construction of Phase 1 – Water and Sewer improvements to Blackrock Construction for \$930,795;
- November 2, 2021 - City Council approves an Interlocal Agreement with Wichita County for reimbursement of the Phase I Business Park Improvements. Through this agreement, the County agreed to utilize approximately \$1.045 million of their

American Rescue Plan Act (ARPA) funds, to reimburse the WFEDC (4A), for the water and sewer improvements within the Business Park;

- January 20, 2022 – (1) WFEDC awards bid and contract for Project A (Fisher Road and Midwestern Pkwy improvements) to Wilson Contracting for \$4.32M, and (2) approves interlocal agreement with the City of Wichita Falls for the transfer of approximately \$1.045M of Wichita County ARPA funds from the City to the WFEDC;
- **February 1, 2022** – City Council to consider authorizing Mayor to sign agreement described above with the WFEDC, effectively completing the transfer of funds from Wichita County to the WFEDC.

The agreement drafted by the City Attorney's office will officially transfer funds from the City of Wichita Falls to the WFEDC Bond Project Fund, as part of larger agreement between the City and Wichita County in which the County will use ARPA funds to pay for a portion of the Business Park Infrastructure Project.

The City Attorney and the City's Director of Public Works will be in attendance at the meeting for any questions.

City staff recommends approval.

☒ **City Attorney**

ASSOCIATED INFORMATION: Resolution , Agreement

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

Resolution No. _____

Resolution authorizing the Mayor to execute an Interlocal Agreement with the Wichita Falls Economic Development Corporation for reimbursement of water and sewer improvements serving the Wichita Falls Business Park

WHEREAS, the City of Wichita Falls has determined an investment in water and sewer mains would make the business park much more marketable to future industrial expansions and investments;

WHEREAS, the Wichita Falls Business Park lies entirely within Wichita Falls;

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

The Mayor is authorized to execute an Interlocal Agreement with the Wichita Falls Economic Development Corporation for reimbursement of water and sewer improvements for the Wichita Falls Business Park in the amount of \$1,045,845.00.

PASSED AND APPROVED this the 1st day of February, 2022.

MAYOR

ATTEST:

City Clerk

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF WICHITA FALLS TEXAS AND THE WICHITA FALLS ECONOMIC
DEVELOPMENT CORPORATION FOR THE REIMBURSEMENT FOR INSTALLATION
OF SANITY SEWER LINES AND WATER LINES USING CORONAVIRUS STATE AND
LOCAL FISCAL RECOVERY FUNDS**

THIS INTERLOCAL AGREEMENT (hereinafter referred to as the "Agreement") is made and entered into by and between the City of Wichita Falls, Texas, a home rule municipal corporation ("CITY"), and Wichita Falls Economic Development Corporation ("WFEDC"), both acting by and through their duly authorized representatives, according to the provisions of the Interlocal Cooperation Act, Texas Government Code, Section 791 *et seq.* WFEDC and the CITY are referred to collectively herein as the "Parties," or individually as a "Party."

WITNESSETH:

WHEREAS, this Agreement is authorized by Chapter 791 of the Texas Government Code; and,

WHEREAS, the Parties are local governments, as that term is defined in Section 791.011 of the Texas Government Code; and,

WHEREAS, on March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law by the President¹ and Section 9901 of ARPA amended Title VI of the Social Security Act 17 (the Act) to add section 603, which establishes the Coronavirus State and Local Fiscal Recovery Fund. ("CSFRF") These funds are intended to provide support to State, Local, and Tribal governments in responding to the impact of COVID-19 and in their efforts to contain COVID- 19 on their communities, residents, and businesses; and,

WHEREAS, Wichita County previously transferred to CITY a certain amount of ARPA funds to make necessary investments and improvements to water and sewer systems within Wichita County; and,

WHEREAS, WFEDC made certain improvements to water and sewer systems as shown in Exhibit A; and,

WHEREAS, CITY wishes to reimburse WFEDC for certain improvements to water and sewer systems, as shown in Exhibit A, using ARPA funds; and,

WHEREAS, both governing bodies have reviewed and approved this interlocal agreement and conditions herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the undersigned Parties agree as follows:

¹ American Rescue Plan Act of 2021 (ARPA), sec. 9901, Public Law 117-2, codified at 42 U.S.C. 802 *et seq.*

I. TERMS AND CONDITIONS

CITY hereby agrees to issue to WFEDC an amount of **\$1,045,845.00** as reimbursement for installing a 10-inch and 15-inch sanitary sewer line improvements and 12-inch water line improvements to serve the Wichita Falls Business Park. (See Exhibit A).

II. GENERAL PROVISIONS

- A. Venue and Governing Law. The parties hereby consent and agree that state courts located in Wichita County, Texas, and the United States District Court for the Northern District of Texas (Wichita Falls Division) each shall have personal jurisdiction and proper venue with respect to any dispute between the parties arising in connection with this Agreement. In any such dispute, the parties shall not raise and do hereby expressly waive, any objection or defense to such jurisdiction as an inconvenient forum.
- B. Dispute Resolution. The Parties to this Agreement will work together in good faith to resolve any controversy, dispute, or claim between the Parties which arises out of or relates to this Agreement whether stated in tort, contract, statute, claim for benefits, bad faith, professional liability or otherwise ("Claim"). Nothing herein is intended to prevent either Party from seeking any other remedy available at law including seeking redress in a court of competent jurisdiction. This provision shall survive the termination of this Agreement.
- C. No Third-Party Beneficiaries. This Agreement is for the sole and exclusive benefit of the Parties hereto, and nothing in this Agreement, express or implied, is intended to confer or shall be construed as conferring upon any other person any rights, remedies, or any other type or types of benefits.
- D. Relationship of the Parties. Each Party to this Agreement, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, or associates of one another. The employees or agents of one Party shall not be deemed or construed to be the employees or agents of the other Party for any purposes whatsoever.
- E. No Waiver of Immunities. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to the Parties, their past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of any third party. The Parties do not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and the United States.
- F. Non-Appropriation and Fiscal Funding. The obligations of the Parties under this Agreement do not constitute a general obligation or indebtedness of either Party for which such Party is obligated to levy, pledge, or collect any form of taxation.
- G. Entire Agreement. This Agreement represents the entire and integrated agreement between the Parties and supersedes all prior negotiations,

representations, or agreements, either oral or written. This Agreement may be amended only by written instrument signed by each Party to this Agreement.

- H. Governmental Function. All parties agree that this contract is one that pertains solely to a governmental function taken by or on behalf of the CITY. All parties expressly agree that the CITY is not engaging in any proprietary functions.
- I. Contractual Damages Limitation. Neither Party shall be liable for consequential damages, exemplary damages, or damages for unabsorbed home office overhead.
- J. Waiver of Attorney's Fees. If any action at law or in equity is necessary to enforce this agreement, each party agrees to pay its own attorneys' fees and will not seek to recover its own attorneys' fees from the other party. All parties understand that Texas Local Government Code subchapter I, § 271.153(a)(3) provides that the total amount of money awarded in an adjudication brought against a governmental entity for breach of a contract includes attorneys' fees. All parties expressly waive all statutory and other rights to recover attorneys' fees pursuant to § 271.153(a)(3) and all other law.

EXECUTED TO BE EFFECTIVE this _____ day of _____, 2022.

WICHITA FALLS ECONOMIC
DEVELOPMENT CORPORATION

CITY OF WICHITA FALLS, TEXAS

By: _____
Leo Lane, Chairman

By: _____
Stephen Santellana, Mayor

ATTEST:

ATTEST:

By: _____

By: _____
Marie Balthrop, City Clerk

Approved as to Form:

Approved as to Form:

By: _____

By: _____
City Attorney

Exhibit A

