

## 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 Heggglund, City Attorney  
Marie Balthrop, City Clerk

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**Notice Of Regular Meeting Of The Mayor And City Council Of The City Of Wichita Falls, Texas, To Be Held In The City Council Chambers, Memorial Auditorium, 1300 Seventh Street, Tuesday, October 18, 2022, Beginning At 8:30 A.M.**

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

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

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Item #

1. Call to Order
2. (a) Invocation: Pastor Ron Redding  
Sunnyside Baptist Church  
  
(b) Pledge of Allegiance
3. Presentations  
  
(a) Employee of the month - Charlene Carey, Recreation

### **CONSENT AGENDA**

4. Approval of minutes of the October 4, 2022 Regular Meeting of the Mayor and City Council.

## 5. Resolutions

- (a) Resolution authorizing the City Manager to execute all documents necessary to purchase network engineering and consulting services from Presidio Networked Solutions Group, LLC in the amount of \$61,245
- (b) Resolution authorizing the City Manager to execute Professional Services Agreement to Biggs and Mathews Environmental, Inc. for engineering services for the City of Wichita Falls Landfill in the amount of \$78,000.00
- (c) Resolution authorizing the purchase of a SWAT Tactical vehicle for the Wichita Falls Police Department through the Houston-Galveston Area Council (H-GAC) Purchasing Cooperative from Lenco Armored Vehicles in the amount of \$339,243.00

## 6. Receive Minutes

- (a) Library Advisory Board, June 21, 2022
- (b) Construction Board of Adjustment, July 6, 2022
- (c) Wichita Falls Park Board, July 28, 2022

## **REGULAR AGENDA**

## 7. Ordinances

- (a) Ordinance making an appropriation to the Special Revenue Fund for HIV/STD-DIS Prevention Services grant funding in the amount of \$299,909 received from the Department of State Health Services and authorizing the City Manager to execute contract accepting same
- (b) Ordinance authorizing the City Manager to approve a request from Fred Roach to vacate and abandon a portion of a utility easement across Lot 1-A, Block 1, Austin Addition also known as 1402 Iowa Park

## 8. Resolutions

- (a) Resolution to accept the written offers as presented for 2 Trustee parcels and authorizing execution of the Quitclaim Deed to convey title to Jessica Zaragoza and Brian Steed
- (b) Resolution authorizing the City Manager to execute contracts with several community service organizations and organizations that promote the convention and tourism industry

- (c) Resolution of the City of Wichita Falls, Texas, authorizing the City Manager to execute a professional services contract with McKool Smith, P.C., Ashcroft Sutton Reyes LLC, and Korein Tillery LLC for legal services on a contingent fee basis for collection of unpaid franchise fees subject to approval by the Office of the Attorney General
- (d) Resolution authorizing the City Manager to award bid and contract for the 2022 Lift Station 36, 52 & 69 Rehabilitation Project to Bowles Construction Co. in the amount of \$613,275.00
- (e) Resolution authorizing the City Manager to approve change order No. 1 & Final for the Hike & Bike Trail west of Lake Wichita Park to Marina for a reduction of \$38,729.70
- (f) Resolution authorizing the City Manager to award bid and contract for the 2022 Drainage Maintenance Repairs to Chad & Brandi Inc. DBA Wilson Contracting in the amount of \$545,156.16

## 9. Other Council Matters

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

## 10. 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.

## 11. Executive Sessions

Executive Session in accordance with Texas Government Code §551.071, consultation with attorney on matter involving pending or contemplated litigation or other matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act (including, but not limited to, legal issues related to On-line streaming companies).

## 12. Adjourn

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

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

### CERTIFICATION

I certify that the above notice of meeting was posted on the bulletin board at Memorial Auditorium, Wichita Falls, Texas on the 12<sup>th</sup> day of October, 2022 at 4:15 o'clock p.m.

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

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**CITY COUNCIL AGENDA**  
**October 18, 2022**

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

**INITIATING DEPT:** Recreation

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**NAME:** Charlene Carey

**DEPARTMENT:** Recreation

**HIRE DATE:** June 7, 2021

**PRESENT POSITION:** Recreation Program Coordinator

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

☒ **Director of Human Resources**

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☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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City of Wichita Falls  
City Council Meeting  
Minutes  
October 4, 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

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

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**Item 2a – Invocation**

Reverend John McLarty, First United Methodist Church, gave the invocation.

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**Item 2b – Pledge of Allegiance**

Mayor Santellana led the Pledge of Allegiance.

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**Item 3a – Employee of the Month – Charlene Carey, Recreation**

This item was postponed to a future meeting due to the employee not being available.

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**Item 3b – Proclamation – Domestic Violence Awareness Month, First Step, Inc.**

8:31 a.m.

Mayor Santellana read a proclamation proclaiming October 2022 as Domestic Violence Awareness Month in Wichita Falls, and encouraged all citizens to light a candle to honor all victims of domestic violence, and support First Step of Wichita Falls and their efforts to provide outreach, education, hope, and healing.

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**Item 3c – Proclamation – National Arts and Humanities Month, Wichita Falls Alliance for Arts & Culture**

8:33 a.m.

Mayor Santellana read a proclamation proclaiming October 2022 as National Arts and Humanities Month in Wichita Falls and called upon citizens to celebrate, support, and promote the arts and culture in our city.

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**Item 3d – Proclamation – Financial Aid Awareness, Zavala & Café con Leche**

8:40 a.m.

Mayor Santellana read a proclamation proclaiming the month of October 2022 as College Financial Aid Awareness Month in Wichita Falls, and urged citizens to encourage all students to take the steps necessary to apply for college so they can achieve their dreams and positively impact the future success of our community and nation.

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**Item 4-6 – Consent Items**

8:45 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 September 20, 2022 Regular Meeting of the Mayor and City Council**

**Item 5a – Resolution 118-2022**

Resolution authorizing the City Manager to execute the Joint Funding Agreement for Water Resources Investigations, Number 23SJJFATX039000, with the U.S. Geological Survey for \$86,463.00.

**Item 5b – Resolution 119-2022**

Resolution authorizing the purchase of one (1) Automated Side Loader through the Houston-Galveston Area Council (H-GAC) Purchasing Cooperative from Bruckner Truck Sales, Inc. in the amount of \$357,932.00, one (1) Automated Side Loader through the Houston-Galveston Area Council (H-GAC) Purchasing Cooperative from Bruckner Truck Sales, Inc. in the amount of \$368,353.00 and one (1) Automated Side Loader Crane Carrier Chassis LET2-46 through the BuyBoard Purchasing Cooperative from Bond Equipment Company, Inc. in the amount of \$207,724.00 and Labrie Automated Right Hand 31 CY ASL through the BuyBoard Purchasing Cooperative from Reliance Truck & Equipment in the amount of \$177,252.24.

**Item 5c – Resolution 120-2022**

Resolution authorizing the purchase of one (1) Front Loader through the TIPS Purchasing Cooperative from Ved Heritage Properties, Ltd. dba Volvo & Mack Trucks of Waco in the amount of \$335,400.00.

**Item 5d – Resolution 121-2022**

Resolution authorizing the purchase of one (1) Commercial Side Loader through the Houston-Galveston Area Council (H-GAC) Purchasing Cooperative from Bruckner Truck Sales, Inc. in the amount of \$289,847.00.

**Item 5e – Resolution 122-2022**

Resolution approving extension of the contract for operation and maintenance of jointly owned lake and canal systems by the City of Wichita Falls and the Wichita County Water Improvement District No. 2 in the amount of \$290,124.00.

**Item 6 – Receive Minutes**

(a) Planning & Zoning Commission, August 10, 2022

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**Item 7a(i) – Public Hearing on Ordinance to rezone +/- 4.11 acres of land located at 4413, 4415, and 4419 Sisk Road (G. Tompkins Addition, Lots 1, 2, and 3) from Light Industrial (LI) to Single Family 2 (SF-2)**

8:48 a.m.

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

Terry Floyd, Director of Development Services, discussed the rezone project for three properties located on Sisk Road from Light Industrial to Single Family 2 due to split zoning to allow for the construction of a home. This project was unanimously approved by the Planning and Zoning Commission and staff recommends approval.

George Tompkins, applicant and owner of the property, addressed the City Council and discussed his plans to build a home on the lot.

Mayor Santellana closed the public hearing at 8:52 a.m.

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**Item 7a(ii) – Ordinance 45-2022**

8:52 a.m.

Ordinance to rezone +/- 4.11 acres of land located at 4413, 4415, & 4419 Sisk Road (G. Tompkins Addition, Lots 1, 2, & 3) from Light Industrial (LI) to Single Family 2 (SF-2)

Moved by Councilor Brewer to approve Ordinance 45-2022.

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

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

Nays: None

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**Item 7b(i) – Public Hearing on Ordinance to granting franchises for ambulance service to American Medical Response Ambulance Service, Inc. and Tran Star Inc.**

8:52 a.m.

Mayor Santellana opened the public hearing at 8:52 a.m.

Lou Kreidler, Director of Health, discussed the ambulance franchise permit required every five years, and stated the renewals were postponed due to COVID. Both American

Medical Response (AMR) Ambulance Service, Inc., and Tran Star Inc. have submitted complete applications with all required information and both have been approved.

Councilor Whiteley asked about the ambulance contract. Mr. Leiker stated that the contract is a separate item that will come before the Council at a future date.

Ms. Kreidler discussed the need to have an ambulance franchise to ensure that we have quality services in our community that meet requirements set out by City ordinance.

Councilor Whiteley discussed his concerns about the need for a contingency plan should one of the ambulance services leave. He has heard we are not furthering EMS training with Fire Department personnel and with so many cities across the state moving toward Fire based EMS he is concerned if we are prepared to move that direction if needed.

Mr. Leiker stated that there have been discussions regarding this subject and asked Ken Prillaman, Fire Chief, to address this question.

Chief Prillaman stated that they monitor the use of our advanced medical resources, and discussed the expense to advance those skills. The ambulance service has improved, they are committed to the market, and the performance is good. It would be expensive to warehouse the skills and equipment when there is a second private company that will support the market if needed. Chief Prillaman noted that his peers who operate Fire based EMS do so at a loss, discussed issues with reimbursement collections, and the possible over \$1 million supplement to run Fire based EMS in this market. He will bring back a more in depth staff report with statistics at a future meeting.

There was further discussion regarding the difference between the ambulance contract and the franchise.

Councilor Whiteley discussed his desire to be part of the conversation regarding the renewal of the contract for ambulance services. There was brief discussion regarding the City of Amarillo contract and the need to make sure we have an in depth contract in place. Councilor Whiteley stated that his personal opinion is that we need to find money in the budget to further EMS certifications.

Ms. Kreidler clarified that Franchise Fees are every five years, and that every ambulance service must renew the permit for every box annually.

Mayor Santellana closed the public hearing at 9:03 a.m.

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**Item 7b(ii) – Ordinance 46-2022**  
9:03 a.m.

Ordinance granting franchises for ambulance service to American Medical Response Ambulance Service, Inc. and Tran Star Inc.

Moved by Councilor Smith to approve Ordinance 46-2022.

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

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

Nays: None

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**Item 7c – Ordinance 47-2022**

9:04 a.m.

Ordinance making an appropriation to the Special Revenue Fund for the Tuberculosis Prevention and Control Program Federal in the amount of \$16,052 received from the Department of State Health Services and authorizing the City Manager to execute contract accepting same.

Moved by Councilor Browning to approve Ordinance 47-2022.

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

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

Nays: None

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**Item 7d – Ordinance 48-2022**

9:05 a.m.

Ordinance accepting funds in the amount of \$421,136.36 received from the FY 2021 Assistance to Firefighters Grant (AFG) and authorizing the City Manager to execute contracts and other documents related thereto.

Moved by Councilor Browning to approve Ordinance 48-2022.

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

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

Nays: None

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**Item 7e – Ordinance 49-2022**

9:07 a.m.

Ordinance modifying the appropriations in the Sanitation Fund budget for the 2022-23 fiscal year to allocate \$347,840.57 from Sanitation fund balance for the purchase of the Landfill Compactor through the Sourcewell Cooperative Purchasing from Yellowhouse Machinery Co. John Deere in the amount of \$1,420,840.57, and declaring an emergency.

Moved by Councilor Brewer to approve Ordinance 49-2022.

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

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

Nays: None

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**Item 8a – Resolution 123-2022**

9:12 a.m.

Resolution appropriating a total of \$173,800 of American Rescue Plan (ARPA) Funding for renovation of 2 restrooms located at the Health District.

Moved by Councilor Brewer to approve Resolution 123-2022

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

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

Nays: None

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**Item 8b – Resolution 124-2022**

9:13 a.m.

Resolution appropriating a total of \$250,000 of American Rescue Plan (ARPA) Funding to the Arts Community through the Wichita Falls Alliance for Arts and Culture in compliance with all federal, state and local rules and requirements for use of the funds.

Moved by Councilor Browning to approve Resolution 124-2022.

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

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

Nays: None

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**Item 8c – Resolution 125-2022**

9:16 a.m.

Resolution appropriating a total of \$1,500,000 of American Rescue Plan (ARPA) funding to support grants to local Nonprofit Organizations.

Moved by Councilor Brewer to approve Resolution 125-2022.

Motion seconded by Councilor Smith.

Beverly Ellis, 1605 Parkdale, asked Mr. Floyd for the address of the website. Mr. Floyd stated it would be a separate page on the Development Services website.

Motion carried by the following vote:

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

Nays: None

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**Item 8d – Resolution 126-2022**

9:20 a.m.

A Resolution of the City of Wichita Falls, Texas, authorizing the City Manager to execute a professional services contract with McKool Smith, P.C., Ashcroft Sutton Reyes LLC, and Korein Tillery LLC for legal services on a contingent fee basis for collection of unpaid franchise fees subject to approval by the Office of the Attorney General.

This item was tabled.

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**Item 8e – Resolution 127-2022**

9:20 a.m.

A Resolution of the City of Wichita Falls, Texas, finding that Oncor Electric Delivery Company LLC's ("Oncor" or "Company") application to change rates within the City should be denied; finding that the City's reasonable rate case expenses shall be reimbursed by the Company; finding that the meeting at which this Resolution is passed is open to the public as required by law; requiring notice of this Resolution to the Company and legal counsel.

Moved by Councilor Browning to approve Resolution 127-2022.

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

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

Nays: Councilor Nelson

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**Item 8f – Resolution 128-2022**

9:23 a.m.

Resolution authorizing the purchase of one (1) Tymco Model 600 Regenerative Air Sweeper through the Houston-Galveston Area Cooperative (H-GAC) from Tymco, Inc. in the amount of \$327,260.00.

Moved by Councilor Brewer to approve Resolution 128-2022.

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

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

Nays: None

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**Item 9a – Announcements concerning items of community interest from members of the City Council. No action will be taken or discussed.**

9:26 a.m.

Councilor Jackson thanked everyone for attending the meeting.

Councilor Smith thanked the staff and Council for discussing ARPA funds and in particular the approval of funds for Art's and Nonprofit communities.

Councilor Browning wished a happy belated birthday to Councilor Whiteley.

Councilor Whiteley asked Chief Prillaman for a total on Fill the Boot and Chief Prillaman said they collected just under \$46,000 for MDA. Councilor Whiteley thanked the community for their support, and the Firefighters for their work. October is Pink T-shirt month and shirts are available at Central and Station 8. All money collected stays in our local community. The last Art Walk of the year is this week. He asked about activity at the corner of the parking garage and Mr. Leiker stated that he believes the mural has been started.

Mayor Santellana discussed the annual TML Conference and asked for prayers for safe travel for all attending. He has been speaking at more events and he had the pleasure to speak at Hirschi High School. They were very welcoming and he really enjoyed it, and Hirschi has some fantastic learning programs. He will be speaking to MSU students in the near future, and hopes to visit all high school campuses. He also spoke to a church group that wanted to see what their church community could do to assist the City and community.

Councilor Jackson stated that the Quick Trip should be open towards the end of November, and Clayton Homes is looking to start production in the first quarter of next year. He asked for an update on Panda Biotech, and Mr. Leiker stated that he has not received an update but they are on track repaying their loan.

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**Item 10 – Comments from the Public to Members of the City Council Concerning Items That Are Not on the City Council Agenda**

9:35 a.m.

Jessica Dean, co-owner of Sober Living, addressed the Council regarding the fentanyl crisis. She discussed Narcan training they provide under a partnership with Helen Farabee, and the limited supply of Narcan, which restricts the number of individuals they can train. Ms. Dean discussed the importance of training, and being proactive in addressing the crisis. She asked the Council if ARPA or any other funds are available that could be used to purchase Narcan for our community, and discussed a discount she has negotiated with a vendor. She stated that the need for Narcan is not only for individuals in active addiction, but also for our children. Narcan can be ordered at [morenarcanplease.com](http://morenarcanplease.com), and she urged everyone to work together to proactively educate,

CITY COUNCIL MINUTES  
October 4, 2022  
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protect, and encourage our community as a whole. Mr. Leiker suggested Ms. Dean speak with Mr. Floyd to get information regarding the non-profit ARPA fund grants.

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**Item 11 – Executive Session**

9:40 a.m.

City Council adjourned into Executive Session at 9:40 a.m. in accordance with Texas Government Code §551.071.

City Council reconvened at 9:56 a.m.

Mayor Santellana reconvened in open session and announced that no votes or polls were taken.

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**Item 12 –Adjourn**

Mayor Santellana adjourned the meeting at 9:57 a.m.

PASSED AND APPROVED this 18<sup>th</sup> day of October 2022.

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Stephen Santellana, Mayor

ATTEST:

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Marie Balthrop, TRMC, MMC  
City Clerk



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**CITY COUNCIL AGENDA**  
**October 18, 2022**

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**ITEM/SUBJECT:** Resolution authorizing the City Manager to execute all documents necessary to purchase network engineering and consulting services from Presidio Networked Solutions Group, LLC in the amount of \$61,245.

**INITIATING DEPT:** Information Technologies & Facilities

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**STRATEGIC GOAL:** Efficiently Deliver City Services

**STRATEGIC OBJECTIVE:** Practice Effective Governance

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**COMMENTARY:** The 2022-23 Budget includes \$200,077 to replace/upgrade existing server and network equipment and for network security remediation. These funds are used to replace aging and unsupported network and server equipment every fiscal year.

The 2021-22 budget included funds which were used to hire Presidio Networked Solutions Group, LLC to assist in performing a network security assessment. The results of the assessment recommended we install some additional network equipment and services to properly update, secure, and monitor our network. Presidio Networked Solutions Group, LLC will provide engineering and consulting services for the network remediation equipment. Presidio is on the Texas Department of Information Resources (DIR) purchasing contract.

Staff recommends approval.

☒ Assistant City Manager

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**ASSOCIATED INFORMATION:** Resolution

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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

**Resolution authorizing The City Manager to execute all documents necessary to purchase network engineering and consulting services from Presidio Networked Solutions Group, LLC in the amount of \$61,245**

WHEREAS, the City's 2022-23 budget includes funds to replace and upgrade existing network equipment that is no longer supported; and,

WHEREAS, these services will be provided by Presidio Networked Solutions Group, LLC.

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 purchase network engineering and consulting services from Presidio Networked Solutions Group, LLC in the amount of \$61,245.

PASSED AND APPROVED this the 18th day of October, 2022.

\_\_\_\_\_  
MAYOR

ATTEST:

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

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**CITY COUNCIL AGENDA**  
**October 18, 2022**

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**ITEM/SUBJECT:** Resolution authorizing the City Manager to execute Professional Services Agreement to Biggs and Mathews Environmental, Inc. for engineering services for the City of Wichita Falls Landfill in the amount of \$78,000.00.

**INITIATING DEPT:** Public Works / Sanitation

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**STRATEGIC GOAL:** Efficiently Deliver City Services

**STRATEGIC OBJECTIVE:** Practice Effective Governance

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**COMMENTARY:** The City of Wichita Falls Landfill requires annual environmental engineering services for testing, surveying, and reporting in order to meet Texas Commission on Environmental Quality (TCEQ) regulations. Annually, the City is required to submit data and reports on air permitting, landfill capacity evaluation, and groundwater monitoring. The air permitting requirements include a Greenhouse Gas (GHG) Summary Report, Emissions Inventory, Air Emissions/Inspection Fee Basis Form, Federal Operating Permit Annual Compliance, Tier II Testing Report and other air permits as required by the EPA and TCEQ. The landfill capacity evaluation requires on-site ground survey, capacity calculations and waste-fill drawings. Annual groundwater monitoring includes sampling, testing, analytical evaluation, and reporting on existing monitoring wells. The basic services for the annual requirements in 2023 are expected not to exceed \$78,000.

Biggs and Mathews Environmental, Inc. have performed these services for the City for the past 20 years. The staff has been very pleased with the level of service from Biggs and Mathews Environmental, Inc. They are highly qualified and maintain expertise to complete these services within the timeline specified while adhering to TCEQ's reporting processes.

Staff recommends award of the agreement to Biggs and Mathews Environmental, Inc. in the amount of \$78,000.00 for FY 2022 - 2023 basic services. These costs are included in the approved FY 2023 budget.

☒ **Director, Public Works**

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**ASSOCIATED INFORMATION:** Resolution, Agreement

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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

**Resolution authorizing the City Manager to execute Professional Services Agreement to Biggs and Mathews Environmental, Inc. for engineering services for the City of Wichita Falls Landfill in the amount of \$78,000.00**

WHEREAS, the City of Wichita Falls has determined that Biggs and Mathews Environmental, Inc. is qualified to provide Engineering Services for the City of Wichita Falls Landfill; and

WHEREAS, it is found that the Engineering Services to complete the sampling, testing, and reporting for the City of Wichita Falls Landfill is an estimated total of \$78,000.00.

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

The engineering services for the City of Wichita Falls Landfill is awarded to Biggs and Mathews Environmental, Inc., in an estimated total amount of \$78,000.00, and the City Manager is authorized to execute a contract for the City with said Contractor for the design of such project.

PASSED AND APPROVED this the 18th day of October, 2022.

\_\_\_\_\_  
MAYOR

ATTEST:

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

**Professional Services Agreement between the City of Wichita Falls and Biggs & Mathews Environmental, Inc.  
for Engineering Services for the City of Wichita Falls Landfill – Permit No. 1428A Consulting Services for  
Fiscal Year 2022/2023 – Annual Services**

**OWNER:** The City of Wichita Falls; Attn: Director of Public Works, P.O. Box 1431, Wichita Falls, TX, 76307

**ENGINEER:** Biggs & Mathews Environmental, Inc; 1700 Robert Road, Suite 100, Mansfield, TX, 76063

**PROJECT:** Engineering and hydrogeological professional services in support of various evaluations, studies, modeling, permitting, design, environmental monitoring, field testing, and construction phases services for the City of Wichita Falls Landfill, Transfer Station, and other municipal solid waste facilities.

**PAYMENT:**

**1. Payment for Basic Services.** OWNER agrees to pay the following amounts for Basic Services rendered pursuant to this Contract, a total amount not to exceed **\$78,000**, subject to completion of the following phases of the PROJECT:

Phase	Amount
Completion TCEQ Air Permitting	\$31,500
Completion of Landfill Capacity Evaluation	\$19,000
Completion of Groundwater Monitoring	\$27,500
<b>Total</b>	<b>\$78,000</b>

**2. Payment for Additional Services.** OWNER shall pay ENGINEER for Additional Services requested and rendered as follows:

2.1. Payment for Additional Services of Engineer rendered under this Contract shall be paid for at the following rates when supported by invoices.

Personnel Charges - Category	Billing Rate Range \$ Per Hour
Administrative/Project Assistant	50 – 80
Sr. Administrative/Project Assistant	75 – 100
Designer/Technician/Field Services Technician	60 – 80
Sr. Designer/Sr. Technician/Sr. Field Services Technician	75 – 110
Engineer/Scientist	75 – 120
Project Engineer/Scientist	95 – 140
Senior Project Engineer/Scientist	120 – 175
Principal Engineer/Scientist	175 – 225

2.2. For expenses for Additional Services, ENGINEER shall be compensated at the actual cost to ENGINEER based on rates referenced above or as previously agreed upon in writing. Where field parties are used, expenses shall include charges for the use of any special instruments and equipment, including marine equipment, and expendable items such as stakes and monuments.

**3. Times of Payments:**

3.1. Times of Payments--ENGINEER shall submit monthly statements for Basic and Additional Services rendered. For Basic Services, the statements will be based upon ENGINEER'S estimate of the proportion of the total services actually completed at the time of billing. OWNER shall make prompt monthly payments in response to ENGINEER'S monthly statements. Upon conclusion of each phase of Basic Services, OWNER shall pay such additional amount, if any, as may be necessary to bring total compensation paid on account of such phase to the following percentages of total compensation payable for all phases of Basic Services.

3.2. Past-Due Payments--OWNER agrees to pay a charge of 0.5% per month on all invoiced owed amounts not paid within 30 days of the date of the invoice, calculated from the date of the invoice. In addition, ENGINEER

may, after giving 10 days' written notice to OWNER, suspend services under this Agreement until the ENGINEER has been paid in full all amounts due for services and expenses.

**OWNER'S REPRESENTATIVE:** Russell Schreiber, P.E., Director of Public Works, City of Wichita Falls

**BASIC SERVICES:** ENGINEER shall complete the following professional engineering services as Basic Services, which shall include customary incidental engineering services:

**1. TCEQ Air Permitting.** ENGINEER shall:

- 1.1. Consult with OWNER to clarify and define OWNER'S requirements for the Permitting process and review available data.
- 1.2. Collect field information needed to complete testing and calculation of a new emissions rate, as required.
- 1.3. Advise OWNER of the need to provide or obtain from others data or additional services, and act as OWNER'S representative in connection with any such services acquired from others.
- 1.4. Prepare the Greenhouse Gas (GHG) Summary Report, Emissions Inventory, Air Emissions/Inspection Fee Basis Form, Federal Operating Permit Annual Compliance, Tier II Testing Report and all other air permits as required by TCEQ for submission.
- 1.5. Furnish three copies of the above reports and documents for review by the OWNER'S REPRESENTATIVE.
- 1.6. Submit the air permitting reports to the proper agency and proper number of copies to other required agencies along with three copies to the OWNER'S REPRESENTATIVE.
- 1.7. Respond to TCEQ comments until the air reporting reports are accepted and approved by TCEQ.

**2. Landfill Capacity Evaluation.** ENGINEER shall:

- 2.1. Consult with OWNER to clarify and define OWNER'S requirements for the evaluation process and review available data.
- 2.2. Conduct up to two events to complete the Landfill Capacity Evaluation.
- 2.3. Collect field information needed to complete the capacity evaluation to include the ground survey.
- 2.4. Prepare the capacity evaluation portion of the TCEQ Annual Report to include capacity calculations and waste-fill drawings.
- 2.5. Furnish three copies of the above reports and documents to the OWNER'S REPRESENTATIVE for submittal with the TCEQ Annual Permit.
- 2.6. Respond to TCEQ comments until the TCEQ Annual Report is accepted and approved by TCEQ.

**3. Groundwater Monitoring.** ENGINEER shall:

- 3.1. Consult with OWNER to clarify and define OWNER'S requirements for groundwater monitoring and review available data.
- 3.2. Annual groundwater monitoring, including sampling, testing, analytical evaluation, and reporting will continue. The annual sampling event is conducted in January of each year. TCEQ's decision on the suspension request is that Wichita Falls is required to continue sampling the existing wells, but will not be required to install any new wells. .

**Additional Services.**

For "Additional Services" or "Other Optional Tasks" a separate "Letter of Amendment" will be prepared, each subject to the terms and conditions of this Agreement. Said "Letter of Amendment" will define (1) Scope of Services to be performed, (2) Proposed Schedule of Services, and (3) Cost of Professional Services. Each "Letter of Amendment" will be mutually agreed upon by the OWNER and ENGINEER, subject to the terms and conditions within this Agreement and will be executed by the ENGINEER and Director of Public Works or Designee.

Additional Services may include meetings, travel, regulatory coordination, legal coordination, response to regulatory comments, and special requests as requested by the OWNER. Additional services may also include but not be limited to professional services related to engineering models, engineering design, preparation of construction documents, construction phase engineering services, construction quality assurance, groundwater modeling, permit modifications, and other professional services.

Whenever the need for any Additional Services described herein results from any negligence, mistake, oversight or other fault on the part of ENGINEER, the cost of these services shall be deemed to be included in OWNER'S payments to ENGINEER for Basic Services. Any such Additional Services not performed by ENGINEER that would otherwise be paid separately by OWNER shall be paid for by ENGINEER.

#### **GENERAL CONDITIONS:**

**1. Termination**--OWNER may terminate this Agreement upon 10 days written notice to ENGINEER with the understanding that all services being performed under this Agreement shall cease upon the date specified in such notice. In the event of early termination, ENGINEER shall invoice OWNER for all services completed and shall be compensated in an amount corresponding to the amount designated as compensation for each phase of the work satisfactorily completed and accepted plus an amount corresponding to the percentage of work satisfactorily completed and submitted to OWNER for any phase partly completed on the effective date of the termination.

**2. Ownership & Maintenance of Documents**--All documents and digital files prepared and/or assembled by ENGINEER under this Agreement shall become the property of the OWNER and shall be delivered to OWNER without restriction on future use. OWNER's re-use of documents on future projects will be at the sole risk of OWNER. ENGINEER may make copies of any and all documents for its files and re-use information contained therein. ENGINEER will maintain project records for three years after the OWNER has made final payment to the Contractor and all other pending matters are closed, and provide copies thereof to OWNER if requested.

**3. Controlling Law**--This agreement is performable and is to be governed by the law applicable in Wichita Falls, Texas. Sole venue for any action arising under this Agreement shall be in Wichita County, Texas.

**4. Assignment of Contract**--ENGINEER shall not assign, sublet or transfer any rights under or interest in (including, but without limitations, monies that may become due or monies that are due) this Agreement without the written consent of the OWNER. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent ENGINEER from employing independent consultants, associates, subcontractors, and employees to assist in the performance of services hereunder.

**5. No Third-Party Beneficiaries**--Nothing herein shall be construed to give any rights or benefits to anyone other than OWNER and ENGINEER.

**6. Independent Contractor**--In performing services under this Agreement, the relationship between OWNER and ENGINEER is that of independent contractor, and OWNER and ENGINEER by the execution of this Agreement do not change the independent contractor status of ENGINEER. No term or provision of this Agreement or act of ENGINEER in the performance of this Agreement shall be construed as making ENGINEER or any agent, servant or employee of ENGINEER the agent, servant or employee of OWNER.

**7. Indemnity**--ENGINEER agrees to release, defend, indemnify, and hold the OWNER whole and harmless against any and all claims, suits, and actions for any claims of injuries or damage made by or on behalf of ENGINEER or any of ENGINEER's officers, agents, or employees resulting from the performance or attempted performance of this Contract regardless of whether the injury or damage is caused in whole or in part by any acts or omissions of OWNER or any hidden or apparent condition of property owned or controlled by the OWNER. This indemnity shall not apply to any claim to the extent to which ENGINEER is prohibited from indemnifying a governmental entity pursuant to Tex. Local Gov't Code §271.904 or other law.

**8. Governmental Function Clause** -- All parties agree that this contract is one that pertains solely to a governmental function taken by or on behalf of the City of Wichita Falls. All parties expressly agree that the City is not engaging in any proprietary functions.



**9. Contractual Damages Limitation Clause**--All parties agree that damages in this contract are limited only to choose authorized under Texas Local Government Code Section 271.153. Specifically, the OWNER is not liable for consequential damages or exemplary damages.

**10. 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. CONSULTANT 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 CONSULTANT and OWNER expressly waive all statutory and other rights to recover attorneys' fees pursuant to in § 271.153(a)(3) and all other law

**11. Verification.** I, being over the age of eighteen (18) years and in my official capacity representing an entity that is a party to this contract with the City of Wichita Falls, hereby swear and verify under oath that:

1. Entity does not boycott Israel; and
2. Entity will not boycott Israel during the term of this contract.
3. Is not currently listed on the State of Texas Comptroller's Companies that Boycott Israel List located at <https://comptroller.texas.gov/purchasing/publications/divestment.php>.

  
\_\_\_\_\_  
Signature

This agreement and said attachments may only be amended, supplemented, modified or canceled by a duly executed written instrument.

EXECUTED, this the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**OWNER: City of Wichita Falls, Texas**

**ENGINEER: Biggs & Mathews Environmental, Inc.**

\_\_\_\_\_  
Darron Leiker, City Manager

  
\_\_\_\_\_  
Gregg Adams, P.E., Principal

(seal)

ATTEST:

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

FORM APPROVED:

\_\_\_\_\_  
City Attorney



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**CITY COUNCIL AGENDA**  
**October 18, 2022**

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**ITEM/SUBJECT:** Resolution authorizing the purchase of a SWAT Tactical vehicle for the Wichita Falls Police Department through the Houston-Galveston Area Council (H-GAC) Purchasing Cooperative from Lenco Armored Vehicles in the amount of \$339,243.00.

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

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**STRATEGIC GOAL:** Efficiently Deliver City Services

**STRATEGIC OBJECTIVE:** Practice Effective Government

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**COMMENTARY:** The City Council recently approved an additional \$17,908,876 in the FY 2023 budget for “one time” planning and capital purchases. As part of that package, a SWAT Tactical vehicle was included. This unit is a critical piece of equipment that responds to law enforcement incidents. The unit will be purchased from Lenco Armored Vehicles in the amount of \$339,243.00 through the H-GAC contract. The completed unit will include a BearCat G2 chassis configured to Wichita Falls Police Department (WFPD) specifications.

*Texas Local Government Local Government Code §252.022 exempts items purchased through interlocal cooperative purchasing contracts from the State’s competitive bidding requirements. This chapter does not apply to expenditure for. . . (12) personal property sold. . . under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391.*

Staff recommends approval of the resolution authorizing the purchase of a SWAT Tactical unit through the Houston-Galveston Area Council Purchasing Cooperative from Lenco Armored Vehicles in the amount of \$339,243.00.

Total Cost of SWAT Tactical Unit:	\$339,243.00
FY 2022 Budgeted Amount :	<u>\$340,000.00</u>
Under Budget:	(\$757.00)

This purchase will replace a 2008 Stewart & Stevenson MRAP unit acquired through a military surplus program.

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

☒ **Purchasing**

☒ **Police Chief**

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**ASSOCIATED INFORMATION:** Resolution; HGAC Documentation; Photo

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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

**Resolution authorizing the purchase of a SWAT Tactical vehicle for the Wichita Falls Police Department through the Houston-Galveston Area Council (H-GAC) Purchasing Cooperative from Lenco Armored Vehicles in the amount of \$339,243.00**

WHEREAS, Texas Local Government Local Government Code §252.022 exempts items purchased through interlocal cooperative purchasing contracts from the State's competitive bidding requirements; and,

WHEREAS, the City Council of the City of Wichita Falls has passed a resolution approving the participation in such cooperative agreements; and,

WHEREAS, the City Council finds that Lenco Armored Vehicles is offering a SWAT Tactical vehicle through the H-GAC Purchasing Cooperative, and it is in the best interest to purchase equipment in accordance with the Cooperative Purchasing Programs.

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

City Staff is authorized to execute all documents necessary to purchase a SWAT Tactical vehicle through the H-GAC Purchasing Cooperative from Lenco Armored Vehicles in the amount of \$339,243.

PASSED AND APPROVED this the 18<sup>th</sup> day of October, 2022.

\_\_\_\_\_  
MAYOR

ATTEST:

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



Protecting Our Nation's Defenders™

10 Betz Industrial Drive - Pittsfield, MA 01201  
PH (413) 443-7339 - FAX (413) 445-7865

**Quotation: 22527A**

Customer Code: WCLTX

Quotation Date: 9/12/2022

Lenco Tax ID#: 04-2719777

Repeat Customer: Yes ☐ No ☒

**Bill To**  
City of Wichita Falls, TX  
PO Box 1431  
Wichita Falls, TX 76307  
[Accounts.Payable@wichitafalls.tx.gov](mailto:Accounts.Payable@wichitafalls.tx.gov)

**Ship To**  
City of Wichita Falls, TX  
Fleet Maintenance  
2100 Seymour Highway  
Wichita Falls, TX 76301

Payment Terms	Shipping Terms	Ship Via
Net 30 Days	FOB: Destination	Common Carrier
Estimated Completion	Inhouse Contact	Inspection & Acceptance
12+ Months ARO (Est.)	Jim Massary	At Lenco's Facility in Pittsfield, MA

Item:	Product #	Qty	Unit Price	Extension
Lenco BearCat	BC55003	1	\$ 200,704.00	\$ 200,704.00
Paint Color: Lusterless Urban Green	100558			
LED Lights: Red & Blue				
<b>Options:</b>				
Diesel Engine, 6.7L Turbo	BCDLEN	1	\$ 8,859.00	\$ 8,859.00
22.5" Tire and Wheel Upgrade	BCTWU	1	\$ 8,800.00	\$ 8,800.00
AC-DC Power Inverter w/Auto Eject	BCINV2000	1	\$ 6,387.00	\$ 6,387.00
Back up Camera System with Monitor	BCBU	1	\$ 2,297.00	\$ 2,297.00
Electric Power Mirrors	BCMIR	1	\$ 1,508.00	\$ 1,508.00
High Intensity Driving Lights in Front Bumper	BCHIDL	1	\$ 1,340.00	\$ 1,340.00
Radio Prep Package, (1) Max (2)	BCNSRA	1	\$ 502.00	\$ 502.00
Rear A/C - Heating System: High Capacity Upgrade	BCHACUP	1	\$ 7,182.00	\$ 7,182.00
Intercom System: Inside to Outside	BCINT	1	\$ 2,871.00	\$ 2,871.00
VSP Style Low Profile & Scene Lighting Pkg	BCVSPL	1	\$ 4,068.00	\$ 4,068.00
Take Down Light (Bumper Mounted)	BCTDL	1	\$ 1,853.00	\$ 1,853.00
5 Pack Mag Kit	BCMAGKIT	1	\$ 975.00	\$ 975.00
22.5 Spare Tire, No Run-Flat	BC225ST	1	\$ 1,842.00	\$ 1,842.00
(1) 7" Vertical GunPort Upgrade	BCGP7	8	\$ 152.00	\$ 1,216.00
4-Door Configuration	BC4DR	1	\$ 7,858.00	\$ 7,858.00
Ballistic Skip Round Shield	BCBSRS	2	\$ 1,936.00	\$ 3,872.00
Armored Oil Pan Guard	BCAOPG	1	\$ 1,936.00	\$ 1,936.00
Weapons Mount	BCWMT	6	\$ 200.00	\$ 1,200.00
Hydraulic Front Mounted Receiver with Ram Post and Plate	BCHYDRAM	1	\$ 12,479.00	\$ 12,479.00
Electric Power Winch; Modular w/Winch Basket	BCWNCH	1	\$ 6,207.00	\$ 6,207.00
Heated Windshield Upgrade	BCHGW	1	\$ 2,153.00	\$ 2,153.00
Gas Injector Unit	BCGU	1	\$ 14,552.00	\$ 14,552.00
Gas Injector Storage Basket	BCGISB	1	\$ 1,295.00	\$ 1,295.00
Ram Cam with Monitor	BCRC	1	\$ 23,928.00	\$ 23,928.00
Trauma Lighting (6) Overhead Dome White w/Hi/Low/Red	BCLTMD	1	\$ 2,498.00	\$ 2,498.00
Roof Mounted Remote Control Spot Light - LED	BCSLLED	1	\$ 1,404.00	\$ 1,404.00
Rear Tow Hitch Receiver w/ Winch Power	BCRTOWRWP	1	\$ 1,257.00	\$ 1,257.00
<b>BearCat (Configuration Subtotal)</b>		<b>1</b>	<b>\$ 331,043.00</b>	<b>\$ 331,043.00</b>

Notes:		Proprietary	
Cooperative Purchasing available on NCSA Fire/EMS/Law Enforcement Specialty Vehicles Procurement Program, Bid 23-03-0524. H-GAC Contract # AM10-20		Subtotal	\$ 331,043.00
		Shipping	\$ 8,200.00
		Tax	\$ -
		<b>Total Order</b>	<b>\$ 339,243.00</b>

**WARNING: Information Subject to Export Control Laws**

The written approval of the Directorate of US Defense Trade Controls and Lenco Industries, Inc. must be obtained before reselling, transferring, transshipping or disposing of a defense article to any end user, and use or destination other than as stated on this Lenco quote or the shipper's export declaration in cases where an assumption is claimed under this subchapter ITAR 123.9(A).

Acceptance of this quotation or entering into a purchase agreement with Lenco, the purchaser agrees to Lenco's full Terms and Conditions of Sale, available upon request. This quote will be valid for 90 days.

ACCEPTANCE OF PROPOSAL –

Authorized  
Signature: \_\_\_\_\_  
Please Sign and Return

Authorized  
Signature: \_\_\_\_\_  
*Jim Massery*  
Jim Massery

*Thank You*







## LIBRARY ADVISORY BOARD MINUTES

June 21, 2022

### MEMBERS PRESENT:

Kym Acuna  
Emily Adams (chair)  
Kristen Garrison  
Suhua Huang  
Daniel Juarez  
Jim Sernoe

Jana Hausburg  
Blake Jurucek

### MEMBERS ABSENT

Katherine Love  
Emily Reeves  
Dena Webb

### Librarian's report

Ms. Adams called the meeting to order at 4:33 p.m. Minutes were approved from March of 2022.

Ms. Hausburg issued the Oath of office to Kristen Garrison, Emily Adams, and Suhua Huang. She asked that Emily Adams and Suahua Huang fill out the Statement of elected/appointed official documentation. These documents will be sent to the City Clerk's office. She reminded board members of two trainings that need to be completed as requirements by the City. Completion certificates should be forwarded to the City Clerk's office: [city-clerk@wichitafallstxgov.org](mailto:city-clerk@wichitafallstxgov.org): Open Meetings Act Training and Public Information Act Training.

We are currently in need of some new board members. Jim Sernoe expressed his interest in serving again if needed. Dena Webb is moving soon, and Emily Reeves has already moved.

Fox Baker, Program specialist, reviewed the library's Summer Reading kick-off party. We drew large crowds. Our door count from the hours of 1 to 3 p.m. logged 493 people – and it can't count babes in arms or strollers. It was packed. We had a face painter, treasure hunt, craft, 3D printer demo, a green screen photo opportunity, and a couple of cosplayers: pirate and mermaid. Also an ice cream truck and some free drinks. We gave away 100 bags full of summer reading bling in the first 20 minutes. After that, we gave away "brag tags" – little key chains with our logo and statements like *Reading all-star* on them. Meanwhile, staff continued to guide patrons through tricky computer problems, reference help, helping with library accounts, and issuing new cards. During that time period, we gave out 76 new cards, assisted with 218 patron check-outs, while our self-check machines checked out 973 items.

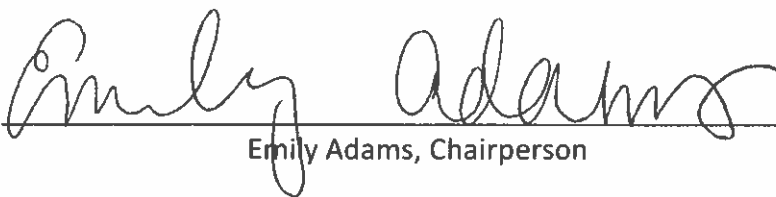


Mr. Baker highlighted upcoming programs such as Touch a Truck, our Holiday Open House, and a traveling display from Texas Humanities featuring German immigrants. He also brought an assortment of items which can be printed on our 3D printer.

Ms. Hausburg discussed the need for a new Integrated Library System (ILS). Our contract with SirsiDynix ends on 6/29/2024. Our current ILS is no longer being supported. We are looking into replacing it with a product from TLC (The Library Corporation.) Library administration has developed a timeline for our migration to a new ILS. It may be a painful transition, but it is necessary to best serve our customers.

There being no further business, meeting was adjourned at 4:50 p.m.

Next meeting is set for September 20 at 4:30 p.m.

Signature:  \_\_\_\_\_  
Emily Adams, Chairperson

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**MINUTES**  
**CONSTRUCTION BOARD OF ADJUSTMENT**  
**July 6, 2022**

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**PRESENT:**

Michael Grassi  
David Hartwell  
Anthony Inman  
Leo Lane  
Allen Moore  
Luke Oechsner  
Ripley Tate  
Tanner Wachsman

◆ Member  
◆ Member  
◆ Vice-Chair  
◆ Chairman  
◆ Member  
◆ Member  
◆ Member  
◆ Member

James McKechnie, Deputy City Attorney  
Paul Menzies, Assistant City Manager  
Terry Floyd, Development Services Director  
Ricky Horton, Interim Chief Building Official  
Cody Melton, Fire Marshal  
Brad Scates, Assistant Building Official, SME  
Martin Wolfe, Plumbing Inspector  
Christal Ashcraft, Development Services Assistant

◆ City Staff  
◆  
◆  
◆  
◆  
◆  
◆  
◆

**ABSENT:**

James Cox  
Pete Johnson  
Doug Marchand  
Gary Oatman

◆ Member  
◆ Member  
◆ Member  
◆ Member

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**I. CALL TO ORDER**

The meeting was called to order by Mr. Leo Lane, chairman of the board at 3:00 p.m.

**III. PUBLIC COMMENTS**

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

**IV. APPROVAL OF MINUTES**

Mr. Allen Moore made a motion to accept the June 13<sup>th</sup> 2022 minutes. Mr. Ripley Tate seconded, motion passed 8-0.

**VII. REGULAR AGENDA**

**A. Discussion of the June 20<sup>th</sup> & 22<sup>nd</sup>, 2022 Meetings on the 2017 National Electric Codes (NEC)**

Chairman Lane introduced the item and turned the floor over to Mr. Ricky Horton for the presentation. Mr. Horton stated on June 7<sup>th</sup>, 2022, the City Council gave direction to the Construction Board of Adjustments to review and make a recommendation on the proposed adoption of the 2017 National

Electric Code (NEC) on or before July 12<sup>th</sup>, 2022 for consideration by the City Council on July 19<sup>th</sup>, 2022. Mr. Horton stated at the CBOA meeting held June 13<sup>th</sup>, 2022 it was requested that staff hold additional meetings open to the public to discuss the 2017 NEC adoption and associated amendments.

The public meetings were held on June 20<sup>th</sup> and 22<sup>nd</sup>, 2022 with contractors, home builders and included the City's most senior expert on the NEC along with other staff members. From those meetings staff put together comments and suggestions from one home builder as they were presented as exhibit A to the Board. No other comments related to the code or potential amendments were presented.

Mr. Horton stated staff recommended adoption of the 2017 NEC with current amendments. He advised staff did not recommend any addition of any of the amendments suggested in the meeting.

Chairman Lane asked if there were any comments from the public. With no comments, Mr. Lane asked if there was any discussion from the Board with regard to the meetings held on June 20<sup>th</sup> and 22<sup>nd</sup>. Mr. Tanner Wachsman stated he was the home builder referenced in exhibit A with the proposed amendments to the 2017 NEC. He advised after reflection and research, he wished to withdraw his proposed amendment, exhibit A (1), to strike the entire section(s) related to arc-fault protection and to propose a moratorium on arc-fault protection outside of the bedrooms. In addition he wished to also withdraw his recommendation to allow a non-GFI protected plug in the garage to be utilized by a refrigerator or freezer, exhibit A (2), stating since they are using a larger amp wire those complaints from homeowners have become less frequent.

Mr. Wachsman stated he did believe the suggested amendments regarding exhibit A (3-5) should be recommended by the CBOA to the City Council. He advised he is not sure how the wording should go or how to recalculate the recommended number of electrical receptacles, and would need staff assistance. Mr. James McKechnie advised staff would be available to assist with writing the proposed amendments.

There was discussion among the Board and staff regarding the three proposed amendments. Chairman Lane asked if there was any further discussion regarding the June 20<sup>th</sup> and 22<sup>nd</sup> meetings.

**B. Conduct a Public Hearing and take action related to the recommendation of adoption of the 2017 National Electric Code (NEC) and associated amendments**

Chairman Lane declared the public hearing open at 3:30pm and asked Mr. Ricky Horton to present the item. Mr. Horton stated staff recommended the CBOA make a formal recommendation to the City Council to adopt the 2017 National Electric Code (NEC) with current amendments and no further changes



as was presented at the June 13<sup>th</sup> meeting as was currently outlined in the Board's packet. Mr. Horton advised staff was available for any questions.

Chairman Lane asked if there were any comments from the public. With no comments, Mr. Lane closed the public hearing at 3:32pm. Mr. Michael Grassi made a motion to recommend the adoption the 2017 National Electric Code with current amendments and exhibit A (3-5). Mr. Ripley Tate seconded the motion. The motion passed unanimously with a vote of 8-0.

**C. Discussion of the 2015 International Mechanical Code (IMC); Section 501.3 "Exhaust Discharge"**

Chairman Lane introduced the item and turned the floor over to Mr. Ricky Horton for the presentation. Mr. Horton stated it was recommended by the City Council that the CBOA discuss the exhaust discharge from ventilation fans at the June 13<sup>th</sup> meeting. Mr. Horton advised this item was for discussion only and no formal action would be taken at this time.

Mr. Horton stated this specific item in the International Mechanical Code (IMC) relates to exhaust discharge from ventilation fans and most directly impacts the installation of ventilation fans in residential restrooms. The IMC references this installation standard in Section 501.3, and it has been required by the code for many code cycles, including the 2015 IMC which is the City's currently-adopted mechanical code. The purpose of the discharge outside is to prevent putting humidity into the attics.

Mr. Horton advised, that staff has also researched manufacturer's specifications related to the installation of the ventilation fans, and have found that all fans researched require ventilation to the outside of the structure as part of the installation specifications. Mr. Horton made the Board aware that staff was available for any questions they may have.

There was lengthy discussion among the Board with the general consensus that there never was or would be a time when this discharge would be enough to put humidity into an attic and would like to see an amendment for this. Mr. Moore advised, up until this last year, the requirement of having the vent exhaust into the outside was never enforced and they had been allowed for many years to vent 18" above insulation into the attic.

Mr. Horton stated city inspectors would continue to enforce to current ICC codes, however, further discussions could be held and possibly a sub-committee established. Mr. Inman made the request to further this discussion at a later date. Mr. Floyd advised staff would arrange and research the item.

**D. Discussion of the City of Wichita Falls Code of Ordinances – Chapter 22, Article II – Building Codes, Sections 107.1, 107.1.1, and 107.1.2 related to requirements for building permit submittal of documents by a registered design professional.**

Mr. Horton stated this was another item requested by the City Council for discussion by the Board after the June 13<sup>th</sup>, 2022 meeting. Mr. Horton advised this item was being presented as a discussion item only and relates to Chapter 22, Article II – Section 107.1, 107.1.1 and 107.1.2 of the City's Code of Ordinances' and reference requirements for design professional documents and architecture in the Texas Occupations Code. Mr. Horton turned the floor over to Mr. James McKechnie, Deputy City Attorney.

Mr. McKechnie stated the State legislature wrote this article in the negative and was hard to interpret unless you start with the thought process of always needing an engineer, then it would be easier to navigate. Mr. McKechnie provided a list of 12 practices of engineering rules and stated most do not apply to what the Board did. However, section 10 is state law determining when an engineer is required, reading "a service, design, analysis, or other work performed for a public or private entity in connection with a utility, structure, building, machine, equipment, process, system, work, project, or industrial or consumer product or equipment of a mechanical, electrical, electronic, chemical, hydraulic, pneumatic, geotechnical, or thermal nature;" Mr. McKechnie stated while still having the mindset of needing an engineer, the next thing he would talk about would be the list of exemptions in which you would not need an engineer;

The person or entity is erecting, constructing, enlarging, altering, or repairing or is drawing plans or specifications for:

- A) a private dwelling;
- B) apartments not exceeding eight units for each building in the case of one-story buildings;
- C) apartments not exceeding four units for each building and having a maximum height of two stories;
- D) a garage or other structure pertinent to a building described by Paragraph (A), (B), or (C);
- E) a private building to be used exclusively for:
  - i. farm, ranch, or agricultural purposes; or
  - ii. storage of raw agricultural commodities; or

Mr. McKechnie stated A – E, you do not need an engineer regardless of square footage.

This next section is what the City calls the "5,000 Sq. Ft. Rule" is as follows;

- F) a building having no more than one story that:
  - i. is not a building exempt from the licensing requirements of this chapter under Section 1001.053 or subject to Section 1001.407;
  - ii. has a total floor area of not more than 5,000 square feet; and
  - iii. does not contain a clear span between supporting structures greater than 24 feet on the narrow side.

Mr. McKechnie advised (i.) would be only for Public Works projects. The next two sections(ii.) has a total floor area of not more than 5,000 sq. ft. and (iii.) does not contain a clear span between supporting structures greater than 24



feet on the narrow side, must both be met before you can claim the exemption of not having an engineer. The other key point would be assuming you are under 5,000 square feet, but your spans are wider than 24 feet, then the trusses and/or beams must be engineered or pre-engineered.

Mr. McKechnie referred to a step chart to explain what circumstances the exemptions apply to. The City of Wichita has amended the building code to require a more stringent requirement for an engineer or architect. The City has the authority to do this under Texas State Local Government Code Chapter 54. Those amendments state:

1. A Group A (Assembly), Group E (Education) or Group I (Institutional) occupancy of 2,500 square feet or more in area;
2. A building or structure of three or more stories; or
3. A building or structure of 5,000 square feet or more in area.

If one or more of those criteria are met, an engineer is required. Mr. McKechnie stated those amendments can be removed, however, if removing the groups A, E and I, those individuals could come into the office to obtain a building permit while not having designed the structure properly and there becomes a back-and-forth with the individual and staff trying to obtain certain information on the build and the individual not understand what the project needs, thus spending a lot of time staff does not have. Mr. McKechnie advised while the local amendments can be removed, the state law cannot be removed or ignored.

There was much discussion among the Board on the lack of importance of the local amendments and the fact that they are more restrictive than the State requirements. The general consensus of the Board was to revisit this topic at a later date for any recommendation to City Council.

## VIII. ADJOURN

Chairman Lane adjourned the meeting at 4:28pm.

  
Chairman, Leo Lane

9-29-2027  
Date

  
Terry Floyd, Director of Development Services

9-29-2022  
Date

**Wichita Falls Park Board Meeting  
July 28, 2022**

**W.F. Recreation Center  
600 11<sup>th</sup> Street Room 205  
Time: 1:30pm**

**Presiding: Jim Heiman**

**Members Present: Alan Donaldson, Larri Jacoby, Dorcas Chasteen,  
Michael Battaglino, Sandy Fleming, Patrick Hearn,  
Jessica Traw, Thomas Taylor, Charlie Zamastil**

**Members Absent:**

**City Council Representative: Present: Steve Jackson**

**Other: Scott McGee, Terry Points (Staff Liaison)  
Absent: Blake Jurecek**

- 1. CALL TO ORDER:**  
New Park Board member Simeon Hendix and Josh Phillips were sworn in by Recreation Liaison Scott McGee.

Jim Heiman called the meeting to order at 1:30 p.m.

- 2. APPROVAL OF MINUTES:**  
The minutes from June 23, 2022, were put before the Board for approval.  
Thomas Taylor made the motion to approve the minutes and Dorcas Chasteen seconded the motion.

**4. DEPARTMENTAL REPORT:**

**A. Recreation: Scott McGee**

- 50 Plus Zone ended the month with 212 daily attendance.
- Food Bank is holding a 4 class series of cooking classes in August & just completed 3 classes in July at the 50 Plus Zone.
- Health Department & 50 Plus Zone presented 2 cooking classes in July and will have 2 more in August.
- A Diabetes Empowerment Program, Live Well Workshop & Improv Workshop will be held in August with 50 Plus Zone.
- Recreation programs wrap up Summer Camp. Camp Lots A Fun finished at 103% for all 4 sessions & Summer Fun camp closed at 51% for 4 sessions.
- Recreation Staff will be attending Back to School Roundup Saturday August 6<sup>th</sup> at the MPEC.



- Recreation will have a new instructor for Youth Ballet & Jazz classes starting in September.
- Athletics Summer Volleyball league continues through August.
- Registration for fall sports is underway for softball, volleyball, kickball, Soccer and Flag Football.
- Lucy Park swimming pool will close Sunday August 6.
- Swim lesson end Friday July 27. All 205 spaces were filled for swim classes.
- Ending contract with Impact Activities at Hamilton Tennis Center, Recreation will take it back over in September.
- Weeks Tennis Center will possibly convert into a full Pickleball facility.

**B. Parks: Terry Points**

- With no rain, the ground is shifting and major leaks are showing up.
- Squirrels and rats are causing mass problems in flower and tree irrigation.
- Parks crews trimmed back tree overgrowth along the trail and we have been spot mowing and trimming. Prepping for HHH.
- WSC put out and pick up trashcans downtown for the Taco Fest.
- Trees at Park Central mulched and the dead tree have been removed.
- Mowed and cleaned 348 lots combined this month.
- Eleven funeral services this month along with routine maintenance.
- Expressway village pond water fountain is being shut down due to low water hard on pump from the drought.
- New cover have been installed over small shelters at Kiwanis Park.

**C. Lake Wichita Revitalization Committee: Mike Battaglin**

- Sidewalk at Veterans memorial plaza 15 ft. wide, unveiling next May for Memorial Day.
- Bricks are on order with names for the Veteran, looking for storage facility when bricks come in

**D. Circle Trail Update: No update at this time.**

**E. Parks Review Update:**

**F. Other Business, Announcements, Comments:**

Meeting was adjourned at 2:53pm

Signature: \_\_\_\_\_

Jim Heiman (First Chair)



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**CITY COUNCIL AGENDA**  
**October 18, 2022**

---

**ITEM/SUBJECT:** Ordinance making an appropriation to the Special Revenue Fund for HIV/STD-DIS Prevention Services grant funding in the amount of \$299,909 received from the Department of State Health Services and authorizing the City Manager to execute contract accepting same.

**INITIATING DEPT:** Health

---

**STRATEGIC GOAL:** Efficiently Deliver City Services

**STRATEGIC OBJECTIVE:** Practice Effective Governance

---

**COMMENTARY:** This is the annual renewal of our current DIS contract. The contract term will run from January 1, 2023 to December 31, 2023.

This grant provides funding to control and prevent the spread of Sexually Transmitted Diseases (STDs), including Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS) and Viral Hepatitis. There are 4 FTE's to include a DIS Program Manager, a Disease Intervention Specialist, a Disease Investigation Statistics Specialist and a clerical staff. These individuals will perform the following six core activities: Community and Individual Behavior Change Interventions, Medical and Laboratory services, Partner Services, Leadership and Program Management, Surveillance and Data Management and Training and Professional Development. There is no matching requirement.

The budget is as follows; salary and fringe (\$269,006) travel (\$10,090), supplies (\$8,682), and other (\$12,131).

Staff recommends approval of the ordinance.

☒ **Director of Health**

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**ASSOCIATED INFORMATION:** Ordinance

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

---

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

**Ordinance making an appropriation to the Special Revenue Fund for HIV/STD-DIS Prevention Services grant funding in the amount of \$299,909 received from the Department of State Health Services and authorizing the City Manager to execute contract accepting same**

WHEREAS, the Department of State Health Services wishes to enhance local response to prevent and control Sexually Transmitted Diseases; and,

WHEREAS, the approval of these funds could not have been anticipated prior to the adoption of the 2022 – 2023 budget.

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

There is hereby appropriated in the Special Revenue Fund \$299,909 in special revenue fund for HIV/STD–DIS services and the City Manager is authorized to execute the contract accepting said grant funding from the State of Texas Department of State Health Services.

PASSED AND APPROVED this the 18th day of October, 2022.

\_\_\_\_\_  
MAYOR

ATTEST:

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

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**CITY COUNCIL AGENDA**  
**October 18, 2022**

---

**ITEM/SUBJECT:** Ordinance authorizing the City Manager to approve a request from Fred Roach to vacate and abandon a portion of a utility easement across Lot 1-A, Block 1, Austin Addition also known as 1402 Iowa Park Road.

**INITIATING DEPT:** Property Management

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**STRATEGIC GOAL:** Accelerate Economic Growth

**STRATEGIC OBJECTIVE:** Support Neighborhood Revitalization

---

**COMMENTARY:** Fred Roach, property owner of 1402 Iowa Park Road, has applied for the closure, abandonment, and vacation of a portion of a utility easement located on his property located at 1402 Iowa Park Road as indicated and depicted per the attached **Exhibit A** and **Property Location Map**. This request is for the purpose of vacating a portion of the utility easement that lies underneath a structure on said property. The property owner is required to pay \$1,430.00 for the partial vacation and abandonment of the easement.

Notifications were sent to all utility companies and affected City departments and all have responded with approval of the requested partial vacation.

The staff recommends approval of this ordinance.

☒ **Asst. City Manager**

☒ **Property Administrator**

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**ASSOCIATED INFORMATION:** Ordinance, Exhibit A, Property Location Map

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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

**Ordinance authorizing the City Manager to approve a request from Fred Roach to vacate and abandon a portion of a utility easement consisting of approximately 954.7 square feet located on Lot 1-A, Block 1, Austin Addition across 1402 Iowa Park Road**

WHEREAS, Fred Roach of 1402 Iowa Park Road has requested the closure, abandonment, and vacation of a portion of the utility easement consisting of approximately 954.7 square feet located on the property at Lot 1-A, Block 1, Austin Addition; and

WHEREAS, all affected utility companies and City departments have reviewed this request and have recommended approval to close, abandon, and vacate a portion of said utility easement; and

WHEREAS, it has been determined to be in the best public interest to close, abandon, and vacate a portion of said utility easement.

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

The City Council has determined that the partial closure request by Fred Roach in the amount of \$1,430.00 of approximately 954.7 square feet of utility easement located on the property with the legal description Lot 1-A, Block 1, Austin Addition as described and depicted in the following attached **Exhibit A** and **Property Location Map** is in the best interest of the public.

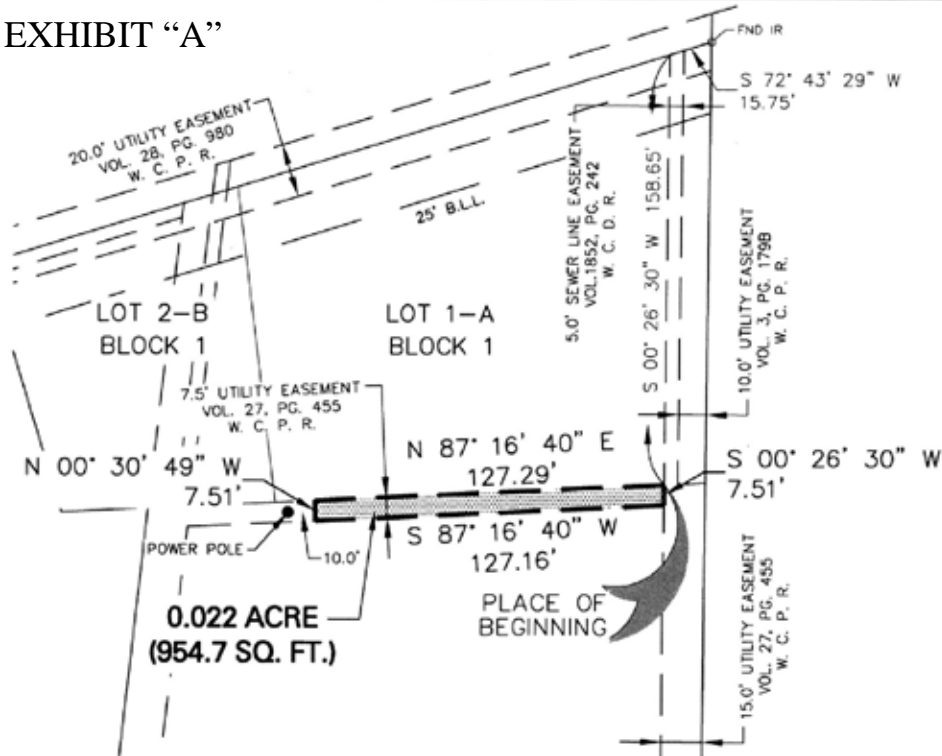
PASSED AND APPROVED this the 18<sup>th</sup> day of October, 2022

\_\_\_\_\_  
MAYOR

ATTEST:

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

# EXHIBIT "A"



## FIELD NOTES

FIELD NOTES OF A 0.022 ACRE UTILITY EASEMENT ACROSS LOT 1-A, BLOCK 1, H.R. AUSTIN ADDITION, AN ADDITION TO THE CITY OF WICHITA FALLS, AS RECORDED IN VOLUME 28, PAGE 980, WICHITA COUNTY PLAT RECORDS, CITY OF WICHITA FALLS, WICHITA COUNTY, TEXAS, AND MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

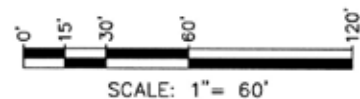
BEGINNING at a point, said point being S 72° 43' 29" W 15.75 feet and S 00° 26' 30" W 158.65 feet from the Northeast corner of said Lot 1-A, for the Northeast corner of this tract;

THENCE S 00° 26' 30" W a distance of 7.51 feet to a point, for the Southeast corner of this easement description;

THENCE S 87° 16' 40" W a distance of 127.16 feet to a point, for the Southwest corner of this easement description;

THENCE N 00° 30' 49" W a distance of 7.51 feet to a point, for the Northwest corner of this easement description;

THENCE N 87° 16' 40" X a distance of 127.29 feet to the PLACE OF BEGINNING, for the end of this easement description.



BASIS OF BEARINGS ARE NAD 83 - TEXAS NORTH CENTRAL

Scale: 1" = 60'

THE ABOVE DESCRIBED TRACT WAS SURVEYED DECEMBER, 2021 AND THE DIMENSIONS SHOWN ARE HEREBY CERTIFIED TO BE TRUE AND CORRECT.

*Devin G. Smith* 12/21/21

DEVIN G. SMITH  
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5849  
TBPLS-100541-00 TBPE F-279

0.022 ACRE UTILITY EASEMENT

TO BE VACATED OUT OF

1-A, BLOCK 1, H. R. AUSTIN ADDITION

WICHITA FALLS, WICHITA COUNTY, TEXAS

SURVEY FOR: FRED ROACH

**CORLETT, PROBST & BOYD, P.L.L.C.**

ENGINEERS & SURVEYORS  
PH. (940)723-1455, FAX (940)397-0549

4605 OLD JACKSBORO HIGHWAY  
WICHITA FALLS, TEXAS, 76302

## PROPERTY LOCATION MAP



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**CITY COUNCIL AGENDA**  
**October 18, 2022**

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**ITEM/SUBJECT:** Resolution to accept the written offers as presented for 2 Trustee parcels and authorizing execution of the Quitclaim Deed to convey title to Jessica Zaragoza and Brian Steed.

**INITIATING DEPT:** Property Administration

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**STRATEGIC GOAL:** Accelerate Economic Development

**STRATEGIC OBJECTIVE:** Support Neighborhood Revitalization

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**COMMENTARY:** : In accordance with Section 272.001 and 253.008 of the Texas Local Government Code, a written offer has been made for the property located at **1303 34<sup>th</sup> St.** which was struck off on 04/05/2022 and **1316 32<sup>nd</sup> St.** which was struck off on 03/09/2022. An agreement for major repairs to 1303 34<sup>th</sup> St. has been signed by Jessica Zaragoza allowing 180 days for major repair to the structure. An agreement for demolition to 1316 32<sup>nd</sup> St. has been signed by Brian Steed allowing 180 days to demolish the burned structure.

This item relates to two (2) trustee properties:

- 1303 34<sup>th</sup> St. (struck-off value: \$7,199.25, land market tax appraisal: \$1,000.00, **written offer: \$1,200.00**, Struck off Date: April 05, 2022.)
- 1316 32<sup>nd</sup> St. (struck-off value: \$3,945.00, land market tax appraisal: \$1,000.00, **written offer: \$700.00**, Struck off Date: March 09, 2022.)

Staff requests the City Council approve the conveyance of the properties above for the offered amounts.

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

- October 03, 2022 County Commissioner's Court approved
- October 17, 2022 WFISD School Board – will provide update at meeting.

The properties will be sold “as is” via Quitclaim deeds as abstracts, surveys, and title policies are not furnished by the City. The proposed buyers are in good financial standing with the City of Wichita Falls, Wichita County, and the WFISD.

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

☒ **Asst. City Manager**

☒ **Property Administrator**

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

☒ **Budget Office Review:**

☒ **City Attorney Review:**

☒ **City Manager Approval**

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

**Resolution to accept the written offers as presented for 2 Trustee parcels and authorizing execution of the Quitclaim Deeds to convey titles to Jessica Zaragoza and Brian Steed**

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

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

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

The City Manager is hereby authorized to execute all necessary documents to facilitate the sale of 1303 34<sup>th</sup> St. to Jessica Zaragoza in the amount of \$1,200.00 and 1316 32<sup>nd</sup> St. to Brian Steed in the amount of \$700.00..

PASSED AND APPROVED this the 18<sup>th</sup> day of October, 2022.

\_\_\_\_\_  
M A Y O R

ATTEST:

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

## Request to Purchase

1303 34<sup>th</sup> St. – Lot 2, Block 14, Hillcrest Addition to the City of Wichita Falls, Wichita County, Texas

Jessica Zaragoza

Written Offer	\$1,200.00
Judgement Amount	\$7,199.25
Tax Appraisal Value (Land)	\$1,000.00
Struck off Date	04/05/2022

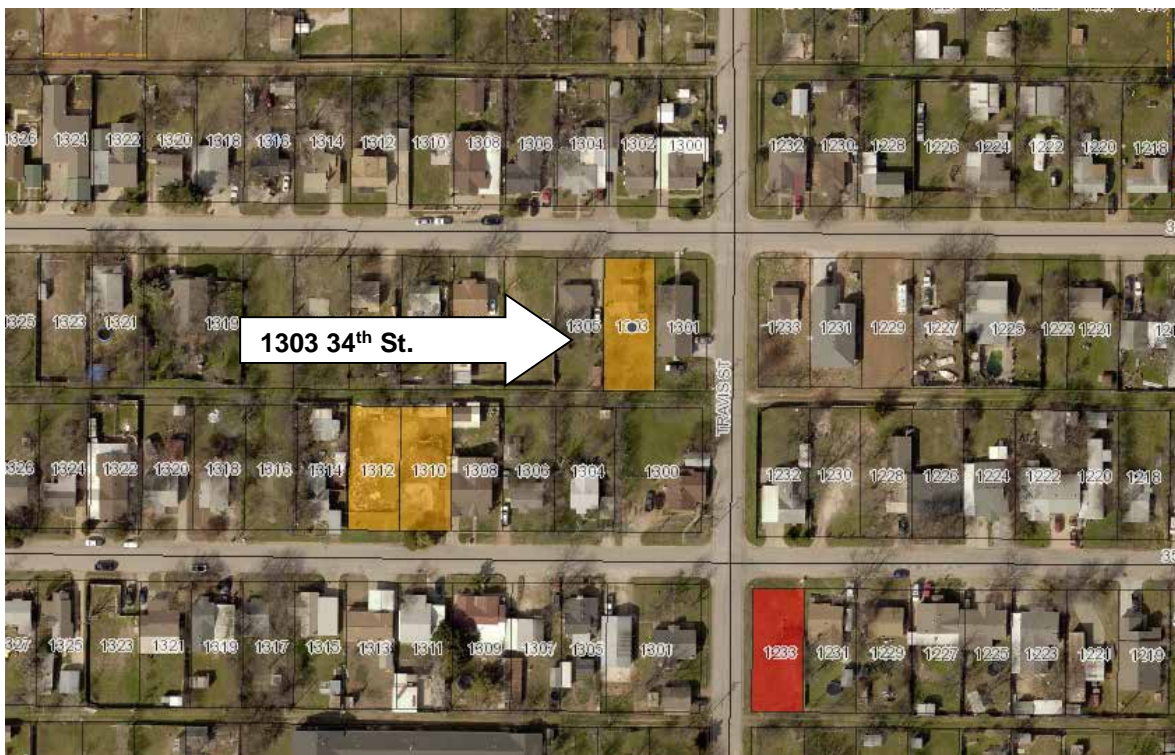
1303 34<sup>th</sup> St.







**LOCATION MAP – 1303 34<sup>th</sup> Street**



**AGREEMENT OF UNDERSTANDING**

I, Jessica Zaragoza, understand and agree that the final sale of 1303 34<sup>th</sup> St. Wichita County, Wichita Falls, TX is contingent upon major repair of the structure located at Lot 2, Block 14, Hillcrest Addition to the City of Wichita Falls, Wichita County, Texas AKA 1303 34<sup>th</sup> St. It is agreed that the full expense of the major repair is the responsibility of the buyer. It is also agreed that if permits for major repair are not obtained within one-hundred and twenty (120) days of the date of purchase, the City of Wichita Falls will enforce specific action.

City of Wichita Falls

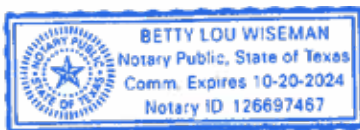
By Patricia Hoffman  
Patricia Hoffman, Property Administrator

Buyer [Signature]

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Jessica Zaragoza, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 7<sup>th</sup> day of September, 2022.

Betty Lou Wiseman  
Notary Public in and for the State of Texas





## Request to Purchase

**1316 32<sup>nd</sup> St.** – Lot 24, Block 5, Hillcrest Addition to the City of Wichita Falls, Wichita County, Texas

**Brian Steed**

<b>Written Offer</b>	<b>\$700.00</b>
<b>Judgement Amount</b>	<b>\$3,945.00</b>
<b>Tax Appraisal Value (Land)</b>	<b>\$1,000.00</b>
<b>Struck off Date</b>	<b>03/09/2022</b>

**1316 32<sup>nd</sup> St.**





**LOCATION MAP – 1316 32<sup>nd</sup> Street**





AGREEMENT OF UNDERSTANDING

I, Brian Steed, understand and agree that the final sale of 1316 32<sup>nd</sup> St. Wichita County, Wichita Falls, TX is contingent upon the demolition of the structure located at Lot 24, Block 5, Hillcrest Addition to the City of Wichita Falls, Wichita County, Texas AKA 1316 32<sup>nd</sup> St. It is agreed that the full expense of this demolition is the responsibility of the buyer. It is also agreed that if the structure is not demolished within one-hundred and twenty (120) days of the date of purchase, the City of Wichita Falls will demolish the structure at the full expense of the buyer.

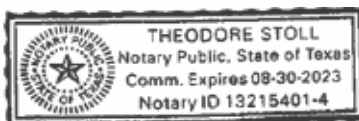
City of Wichita Falls

By Patricia Hoffman  
Patricia Hoffman, Property Administrator

Buyer Brian Steed

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Brian Steed, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 5<sup>th</sup> day of October, 2022.



Theodore Stoll  
Notary Public in and for the State of Texas

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**CITY COUNCIL AGENDA**  
**October 18, 2022**

---

**ITEM/SUBJECT:** Resolution authorizing the City Manager to execute contracts with several community service organizations and organizations that promote the convention and tourism industry

**INITIATING DEPT:** Finance/Community Development

**STRATEGIC GOAL:** Actively Engage and Inform the Public

**STRATEGIC OBJECTIVE:** Strengthen Partnerships with the Not-for-Profit Community

**COMMENTARY:** The current FY 2022-23 budget includes funds in the Community Development Block Grant Program, Hotel/Motel Fund, and the General Fund for several community service organizations and organizations that promote the convention and tourism industry. These funds were set out in the budget as per the recommendations of the City Council Committee on Outside Agency Funding.

This resolution has been prepared to authorize the City Manager to enter into contracts with these organizations in the amounts, and for the purposes, authorized by the City Council. Due to the number of contracts being authorized, they have not been included in the agenda materials. Each of the contracts follows a similar format; however, there are some provisions in the CDBG contracts that are included to comply with federal grant guidelines. The contract terms follow the same terms and conditions as previous years. They generally provide for the scope of services to be performed by the agency and the specific uses for the funds; a term of one year beginning October 1, 2022 and ending September 30, 2023; maximum compensation; method of payment to the contractors; specific financial reports and records to be generated and maintained; and insurance requirements.

The resolution is recommended for approval.

☒ **CFO**

**ASSOCIATED INFORMATION:** Resolution

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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

**Resolution authorizing the City Manager to execute contracts with several community service organizations and organizations that promote the convention and tourism industry**

WHEREAS, the 2022-23 Adopted Budget includes funds for several community service organizations and organizations that promote the convention and tourism industry; and,

WHEREAS, the City Council desires to enter into contracts with these agencies to provide the terms and conditions for the use of these funds.

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

The City Manager is hereby authorized to enter into contracts with the following organizations in the amounts specified below:

<u>Agency</u>	<u>Fund</u>	<u>Amount</u>
Helen Farabee Regional MHMR Centers	General	\$100,000
Helen Farabee Regional MHMR Centers	ARPA	\$100,000
Child Care Incorporated (Operations)	CDBG	\$126,418
Senior Citizens Services of North Texas (Meals on Wheels)	CDBG	\$ 54,179
Christmas in Action	CDBG	\$100,000
Senior Citizens of North Texas (MOW)	HOME-ARP	\$ 50,000
First Step (Safehouse Rehab)	HOME-ARP	\$700,000
First Step (Services/Domestically Abused)	HOME-ARP	\$ 43,000

<u>Agency</u>	<u>Fund</u>	<u>Amount</u>
Wichita Falls Alliance for Arts and Culture	ARPA	\$250,000
Wichita Falls Alliance for Arts and Culture	Hotel/Motel	\$ 50,000
River Bend Nature Works	Hotel/Motel	\$ 6,000
Fantasy of Lights Basketball	Hotel/Motel	\$ 6,500

PASSED AND APPROVED this the 18th day of October, 2022.

\_\_\_\_\_  
MAYOR

ATTEST:

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

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**CITY COUNCIL AGENDA**  
**October 18, 2022**

---

**ITEM/SUBJECT:** A Resolution of the City of Wichita Falls, Texas, authorizing the City Manager to execute a professional services contract with McKool Smith, P.C., Ashcroft Sutton Reyes LLC, and Korein Tillery LLC for legal services on a contingent fee basis for collection of unpaid franchise fees subject to approval by the Office of the Attorney General.

**INITIATING DEPT:** Legal

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**STRATEGIC GOAL:** Efficiently Deliver City Services

**STRATEGIC OBJECTIVE:** Practice Effective Governance

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**COMMENTARY:**

Under Chapter 66 of the Texas Public Utility Regulatory Act (“PURA”), Tex. Util. Code § 66.001 *et seq.*, a Texas municipality can collect a franchise fee from a video service provider if its programming is delivered over wireline facilities, even partly in the public right-of-way. See Tex. Util. Code §§ 66.005 & 66.002(10)—(11). Cable providers, which are also subject to Chapter 66, have remitted these franchise fees for many years.

In recent years, more citizens have gone to subscription-based streaming services, such as Disney DTC LLC, Hulu, LLC, and Netflix, Inc., to watch movies and TV programs. These companies transmit their video programming through wireline facilities that are at least in part in the public right-of-way. Therefore, they are obligated to obtain a state-issued certificate of franchise authority and pay the required franchise fees. These companies have ignored these obligations. Consequently, they have deprived Texas cities of the required compensation for the use of the right-of-way.

So far, 25 Texas municipalities have joined in a lawsuit against the three companies mentioned above, asserting that the companies are subject to PURA and have failed to comply with its requirements. The lawsuit was filed in Dallas County on behalf of Abilene, Allen, Amarillo, Arlington, Austin, Beaumont, Carrollton, Dallas, Denton, Frisco, Fort Worth, Garland, Grand Prairie, Houston, Irving, Lewisville, McKinney, Mesquite, Nacogdoches, Pearland, Plano, Rowlett, Sugar Land, Tyler and Waco. The petition asks that the Court award monetary damages and declaratory relief to the municipalities for damages owed for failure to pay franchise fees and order these companies and other video service providers (VSPs) to pay franchise fees going forward.

Because the City requires legal counsel that specialize in complex litigation and are highly knowledgeable and experienced in the legal issues surrounding the non-payment of franchise fees by the VSPs, this Resolution would authorize the City Manager to enter

into a contingent fee contract for legal services with McKool Smith, P.C., Ashcroft Sutton Reyes LLC, and Korein Tillery LLC (“Counselors”) to represent the City in this Litigation.

☒ **City Attorney**

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**ASSOCIATED INFORMATION:** Resolution

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

---

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

**A Resolution of the City of Wichita Falls, Texas, authorizing the City Manager to execute a professional services contract with McKool Smith, P.C., Ashcroft Sutton Reyes LLC, and Korein Tillery LLC for legal services on a contingent fee basis for collection of unpaid franchise fees subject to approval by the Office of the Attorney General**

WHEREAS, the City intends to pursue claims for monetary damages, declaratory relief, and other legal remedies ("Damages") against Netflix, Inc., Hulu LLC, Disney DTC LLC, and other video service providers ("VSPs") as determined for non-payment of franchise fees as required in the Texas Video Service Providers Act, Texas Utilities Code Sec. 66 (the "Litigation"); and

WHEREAS, the City's desired outcome in the Litigation is to recover from the VSPs Damages owed to the City for failure to pay franchise fees and obtain an order requiring the VSPs to pay the franchise fees going forward, in addition to other relief allowed under the law; and

WHEREAS, the VSPs deliver video programming to their customers via broadband internet through wireline facilities located at least partially in the public right of way; and

WHEREAS, the VSPs do not pay franchise fees to the City as required in section 66.005 of the Texas Utilities Code; and

WHEREAS, the City has a substantial need of the legal services of counsel to represent it in the Litigation; and

WHEREAS, the City requires legal counsel that specialize in complex litigation and are highly knowledgeable and experienced in the legal issues surrounding the non-payment of franchise fees by the VSPs; and

WHEREAS, the City now desires to enter into a contingent fee contract ("Contract") for legal services with McKool Smith, P.C., Ashcroft Sutton Reyes LLC, and Korein Tillery LLC ("Counselors") to represent the City in the Litigation; and

WHEREAS, Subchapter C of Chapter 2254 of the Texas Government Code ("Chapter 2254") requires that a political subdivision of the State of Texas, including the City, may enter into a contingent fee contract for legal services only after: (i) the governing body of the political subdivision has provided written notice to the public stating certain provisions enumerated within Chapter 2254; (ii) the governing body of the political subdivision approved such contract in an open meeting called, in part or in whole, for the purposes of considering such contract; and (iii) the governing body of the political subdivision stated in writing certain findings made by the governing body upon the approval of such contract; and

WHEREAS, before the contingent fee contract for legal services is effective and enforceable, the City must receive approval of the Contract by the Office of the Attorney General of Texas or the Contract is otherwise allowed under Tex. Gov't Code Ch.2254, as amended; and

WHEREAS, the City has caused notice of this Resolution, this meeting, and certain provisions enumerated within Chapter 2254 to be provided to the public in accordance with the Texas Open Meetings Act and Chapter 2254; and

WHEREAS, the meeting at which this Resolution is being considered is an open meeting called, in part or in whole, for the purpose of considering: (i) the City's need for legal counsel to represent it in the Litigation; (ii) terms of the Contract; (iii) the competence, qualifications, and experience of the Counselors; and (iv) the reasons that the Contract is in the best interest of the City and complies with Chapter 2254; and

WHEREAS, the City Council hereby finds and determines that the adoption of this Resolution is in the best interests of the residents of the City.

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

SECTION 1. That the recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

SECTION 2. That the City Council hereby finds that: (i) there is a substantial need for the legal services to be provided in the Litigation; (ii) the legal services to be provided in the Litigation cannot adequately be performed by the attorneys and supporting personnel currently employed by the City; (iii) the legal services to be provided in the Litigation cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the Litigation and without imposing an unnecessary cost and burden on the City's finances; and (iv) the relationship between the City or the City Council and the Counselors is not improper and would not appear improper to a reasonable person.

SECTION 3. That based on the findings by the City Council described above, the City Council hereby authorizes the City Manager to execute a legal services contract with McKool Smith, P.C., Ashcroft Sutton Reyes LLC, and Korein Tillery LLC, approved as to form by the City Attorney, effective only upon approval by the Office of the Attorney General of Texas or as otherwise allowed under Tex. Gov't Code Ch.2254, as amended.

SECTION 4. That it is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551 as amended, Texas Government Code.

SECTION 5. That the City will pay the Counselors a contingency fee and expenses in accordance with the rates in Attachment A to this Resolution and contingent upon the recovery, if any, by the City in the Litigation.

SECTION 6. That this Resolution shall take effect November 3, 2022 in accordance with the provisions of the Charter of the City of Wichita Falls, and it is accordingly so resolved.

PASSED AND APPROVED this the 18<sup>th</sup> day of October, 2022.

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M A Y O R

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney

## **ATTACHMENT A**

### **AGREEMENT FOR PROVIDING LEGAL SERVICES TO CITY OF WICHITA FALLS IN CONNECTION WITH RECOVERY OF FRANCHISE FEES**

The City of Wichita Falls, Texas ("City") and the law firms of McKool Smith, P.C., Korein Tillery LLC, and Ashcroft Sutton Reyes LLC (collectively, "Counselors") enter into this agreement ("Contract") to provide legal services on behalf of the City, its elected or appointed officials and employees with such services regarding the matter below. The City and Counselors shall collectively be referred to as the "Parties."

#### **1. PROFESSIONAL LEGAL SERVICES**

A. Counselors are hereby retained to provide legal representation to the City in connection with litigation seeking damages, declaratory relief, attorneys' fees, interest and other appropriate relief from Netflix, Inc., Hulu, LLC, Disney DTC LLC and other video service providers ("Defendants") as may be decided for the non-payment of franchise fees ("Franchise Fees," as referenced in Section 66.005, of the Texas Utilities Code, as amended) (collectively, the "Litigation"). The services shall be referred to as "Professional Legal Services."

B. Counselors hereby agree to perform the Professional Legal Services necessary, in accordance with the terms of this Contract. This Contract shall be administered on behalf of City by its City Attorney. At the request of the City Attorney, Counselors will provide case status reports, and will participate from time to time in both open and closed session briefings of the City Council.

#### **2. PAYMENT**

For the performance of Professional Legal Services and advance of Costs by Counselors, City agrees to pay Counselors on a contingency fee and reimburse costs out of any recovery as detailed on Exhibit A which is incorporated herein.

#### **3. RECITALS PURSUANT TO TEX. GOV'T CODE CH. 2254**

Counselors' further duties in compliance with Tex. Gov't Code Ch. 2254, as amended, are set out in Exhibit A.

#### **4. TERM**

The term of this Contract shall begin 90 days after it is received by the Office of the Attorney General of Texas ("OAG") pursuant to Tex. Gov't Code Ch. 2254, as amended, unless it is not approved by that time. Once it is either approved by the OAG, or 90 days have passed, the Contract shall continue until completion of the Litigation or terminated as provided herein. All services under this Contract are to be completed timely and in the highest professional manner.

#### **5. TERMINATION**

A. The City Attorney may terminate the performance of services at any time, with or without cause by giving at least ten (10) days written notice to Counselors. The notice must be delivered by email and by certified mail with return receipt for delivery to the City.



1. Termination Without Cause: (i) if City terminates this Contract without cause, Counselors shall be paid for the reasonable value of the legal services provided plus reimbursement for all Costs incurred at the time of termination; (ii) if the City resolves the Litigation through final settlement, award, or judgment, Counselors shall be paid Attorneys' Fees pursuant to Exhibit A at the time a Recovery.

2. Termination with Cause: If Counselors fail to satisfactorily perform any material obligation under this Contract, such failure constitutes a Default. If Counselors fail to satisfactorily cure a Default within thirty (30) calendar days of receiving written notice from the City specifying the nature of the Default, the City may terminate this Contract for cause, in which case compensation and Costs due Counselors, if any, shall be calculated considering the particular facts and circumstances involved in such termination, and paid only out of any Recovery.

B. Counselors may withdraw as permitted under the Rules of Professional Conduct of the State Bar of Texas. The circumstances under which withdrawal is permitted include the following: (a) the City consents, (b) the City's conduct renders it unreasonably difficult for Counselors to carry out the employment effectively, (c) the City fails to pay Attorneys' Fees or Costs as required by this Contract; or (d) Counselors determine it is not economically feasible for Counselors to perform the Services. If Counselors properly withdraw from representing the City pursuant to subparagraph (a)-(c) above or because it is required to do so by the Rules of Professional Conduct, the City agrees to compensate Counselors for the reasonable value of the legal services provided, plus reimbursement for Costs. The reasonable value of legal services shall not exceed thirty-three and one-third percent (33.33%) of the City's total recovery or, if reimbursed on an hourly basis, shall not exceed the hourly rates provided in Exhibit A, Section 8.8. In such a situation, both Fees and reimbursement of Costs will be paid by City to Counselors at the time a Recovery is collected by the City. If Counselors withdraw from representing City pursuant to subparagraph (d) above, Attorneys' Fees and Costs due Counselors, if any, shall be calculated considering the particular facts and circumstances involved in such withdrawal, and only out of any Recovery. Any disputes regarding the reasonable value of such legal services or Costs shall be mediated by the Judicial Arbitration and Mediation Services (JAMS).

6. VENUE AND GOVERNING LAW

This Contract is made subject to the Charter and ordinances of the City, as amended, and all applicable laws of the State of Texas. This Contract is performable in Dallas County, Texas, and venue for any legal action under this Contract shall lie in Dallas County, Texas; and in construing this Contract, the laws and court decisions of the State. Any disputes regarding the Contract including the reasonable value of legal services or Costs shall be mediated by the Judicial Arbitration and Mediation Services (JAMS) before any litigation is undertaken.

7. NO REPRESENTATION OF ANY ADVERSE PARTY

Counselors acknowledge that they are not currently involved in any litigation in which it represents a party who is adverse to the City, and Counselors agree that they will not undertake any litigation adverse to the City or to an employee or officer of the City, except with prior disclosure to and written consent by the City Attorney.

8. CONFLICTS

The City and Counselors acknowledge that other Texas cities and individual government entities may seek to become named parties in the Litigation and be represented by Counselors. The City recognizes that there may be potential conflicts or actual conflicts of interest if Counselors represents other cities in litigation like the Litigation. The City understands that it would be to its benefit for other parties to become named parties as it may enhance the case and lower the City's expenses. Accordingly, the City has conferred with the City Attorney and has determined that it is in its own best interests to waive all potential or actual conflicts of interest which may occur as a result of Counselors representing other government entities in this or similar litigation. The City therefore waives all such potential or actual conflicts of interest which may occur because of the Counselors representing other government entities in this Litigation or similar litigation.

9. REPRESENTATION OF RELATED INTERESTS

Counselors shall have the right to represent other municipalities, or governmental subdivisions in other video service provider franchise fee actions or similar litigation without the consent of the City, subject to the Texas Disciplinary Rules of Professional Conduct ("Rules of Professional Conduct") relating to conflicts of interest.

The City acknowledges and agrees that it is possible that disagreements and differences may arise between and among Client Group in the future. The City further acknowledges that in the event such differences do arise, Counselors cannot assist or be involved in their resolution, and they agree not to seek Counselors' involvement or assistance in resolving any differences.

If the City and any other Client Group member cannot resolve their differences and Counselors determine that those differences create a conflict of interest that would materially limit their ability to provide competent and diligent representation to each Client Group member in this Litigation, then the City agrees that Counselors may withdraw for cause from representing City as necessary to resolve the conflict of interest. The City further agrees that Counselors may, at their election, continue to represent other Client Group members after such withdrawal.

The City acknowledges that one of the necessary consequences of joint representation is the sharing of confidential information concerning the subject matter of the representation where the disclosure is for the benefit of the client. Counselors will treat as confidential and not disclose confidential communications between Counselors and the City outside the Client Group. Except for disclosure to the Client Group, all other confidential information about this Litigation provided by the City will be protected, except to the extent required by applicable rules of professional conduct or order of a court with proper jurisdiction. The City agrees that no such communication or any other confidential information concerning this Litigation will be disclosed outside the Client

Group without the informed written consent of the Client Group member that made the communication or disclosed the information. The City further agrees that material communications or information that it provides to Counselors, including confidential communications and information, Counselors may share with the other Client Group members.

The City acknowledges and agrees that if Counselors no longer represent it in this Litigation as a result of Counselors' withdrawal because of a conflict of interest or other cause, Counselors may nevertheless use any confidential information they have concerning this Litigation to the advantage of the remaining Client Group members.

10. CONFLICT OF INTEREST

It is understood and agreed that the Counselors will notify the City in writing of the potential for any conflict of interest in any legal matter or case within 24 hours of its discovery.

11. NOTICES

Except as otherwise provided in Section 14, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be affected by email and personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

If intended for City, to:

R. Kinley Heggland, Jr., City Attorney  
City of Wichita Falls, Texas  
1300 7<sup>th</sup> Street  
Wichita Falls, Texas 76307  
Email: [kinley.heggland@wichitafallstx.gov](mailto:kinley.heggland@wichitafallstx.gov)

If intended for Counselors, to:

Steven Wolens  
McKool Smith  
300 Crescent Ct., Ste. 1500  
Dallas, TX 75201  
Email: [swolens@mckoolsmith.com](mailto:swolens@mckoolsmith.com)

Steven M. Berezney  
Korein Tillery LLC  
505 N. 7th Street, Ste. 3600  
St. Louis, MO 63101  
Email: [SBerezney@KoreinTillery.com](mailto:SBerezney@KoreinTillery.com)

Austin R. Nimocks  
Ashcroft Sutton Reyes LLC  
919 Congress Ave., Ste. 1325  
Austin, TX 78701  
Email: [animocks@ashcroftlawfirm.com](mailto:animocks@ashcroftlawfirm.com)

12. LEGAL SERVICES SPECIFICALLY EXCLUDED

Counselors do not agree to provide any representation beyond that described in Section 1.A. above. If the City wishes to retain Counselors to provide any legal services not provided under this Contract, a separate written agreement between Counselors and the City will be required.

13. AUTHORITY OF COUNSELORS

Counselors may execute, at his/her option, all reasonable and necessary court documents connected with the handling of the Litigation. If the City Attorney gives Counselors sufficient notice of documents he/she wishes to jointly sign with Counselors, Counselors will undertake good faith efforts to accomplish same.

14. ATTORNEYS' LIEN

Counselors will have a lien to the fullest extent of Texas law for attorneys' fees and costs on all claims and causes of action that are the subject of its representation of the City under this Agreement and on all proceeds of any recovery collected (whether by settlement, Court judgment, or otherwise).

15. COMMUNICATIONS

The City designates R. Kinley Heggland, Jr., the City Attorney, or any other person designated by the City Attorney as the authorized representative of the City to direct Counselors. Correspondence will be forwarded to him at [kinley.heggland@wichitafallstx.gov](mailto:kinley.heggland@wichitafallstx.gov). Counselors designate Steven Wolens to be the primary individual to communicate with the City regarding the subject matter of Counselor's representation of the City under this Agreement. Correspondence will be forwarded to him at [swolens@mckoolsmith.com](mailto:swolens@mckoolsmith.com).

16. NO ASSIGNMENT

Counselors shall not sell, assign, transfer, or convey this Contract, in whole or in part, without the prior written consent of the City Attorney.

17. COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument. If this Contract is executed in counterparts, then it shall become fully executed only as of the execution of the last such counterpart called for by the terms of this Contract to be executed. Any signature delivered by a party by facsimile or electronic transmission (including email transmission of a PDF image) shall be deemed to be an original signature hereto.

18. CAPTIONS

The captions to the various clauses of this Contract are for informational purposes only and shall not alter the substance of the terms and conditions of this Contract.

19. ENTIRE AGREEMENT; NO ORAL MODIFICATIONS

This Contract (with all referenced Exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of both parties, superseding all oral or written previous and contemporary agreements between the parties relating to matters set forth in this Contract. Except as otherwise provided elsewhere in this Contract, this Contract cannot be modified without written supplemental agreement executed by both parties.

20. MISCELLANEOUS

City recognizes that no result has been guaranteed by Counselors, and that this Contract is not based upon any such promise or anticipated result. City further acknowledges that it is exclusively responsible for all personal liability, or potential liability, awarded against it by a court because of a claim, counterclaim, protest suit, or otherwise, and that by undertaking to represent City pursuant to this Contract, Counselors assume none of City's joint and/or individual liability.

21. AUTHORITY TO SETTLE LITIGATION

City does not relinquish authority or responsibility through this Contract to settle the Litigation. City has the sole authority to settle the Litigation on behalf of the City and its citizens, and Counselors shall inform the City Attorney of all settlement offers.

22. APPROVAL BY THE OFFICE OF THE ATTORNEY GENERAL OF TEXAS

The Parties agree that this Contract is not effective until approved by the Office of the Attorney General of Texas ("OAG") or as otherwise allowed under Tex. Gov't Code Ch. 2254, as amended.

23. COMPLIANCE WITH CERTAIN STATE LAW

1. *Anti-Boycott of Israel.* Each Firm certifies that it is not currently engaged in, and agrees for the duration of this Agreement not to engage in, the boycott of Israel as defined by Section 808.001 of the Texas Government Code.

2. *Anti-Boycott of Energy Companies.* Each Firm certifies that the Firm is not currently engaged in, and agrees for the duration of this Agreement not to engage in, the boycott of energy companies as defined by Section 809.001 of the Texas Government Code.

3. *Anti-Boycott of Firearm Entities or Firearm Trade Associations.* Each Firm certifies that the Firm does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, or will not discriminate

against a firearm entity or firearm trade association for the duration of this Agreement, as defined by Section 2274.001 of the Texas Government Code.

4. *Certification of No Business with Foreign Terrorist Organizations.* For purposes of Section 2252.152 of the Texas Government Code, Each Firm certifies that, at the time of this Agreement neither Firm nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Firm, is a company listed by the Texas Comptroller of Public Accounts under Sections 2252.153 or 2270.0201 of the Texas Government Code as a company known to have contracts with or provide supplies to a foreign terrorist organization.

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**COUNSELORS**

MCKOOL SMITH, P.C.

\_\_\_\_\_  
Steven D. Wolens

KOREIN TILLERY, LLC

\_\_\_\_\_  
Steven M. Berezney

ASHCROFT SUTTON REYES LLC

\_\_\_\_\_  
Austin R. Nimocks

**CITY OF WICHITA FALLS, TEXAS**

\_\_\_\_\_  
Darron Leiker  
City Manager

ATTEST:

\_\_\_\_\_  
Marie Balthrop  
City Clerk

\_\_\_\_\_  
Date

APPROVED AS TO FORM & LEGALITY:

\_\_\_\_\_  
R. Kinley Heggland, Jr.  
City Attorney



EXHIBIT A  
COMPENSATION AND COSTS

1. **Compensation ("Attorneys' Fee(s)").**

The employment of Counselors will be on a contingency fee basis. Specifically, if the City obtains a recovery and collection on behalf of the City before a trial or appeal, Counselors will receive attorneys' fees in the amount of Thirty Percent (30%) of the Gross Recovery. If recovery for the City occurs after the beginning of trial (at the beginning of opening argument) or 2) upon appeal of any judgment, Counselors will instead receive attorneys' fees in the amount of the Thirty-Three and One-third percent (33 1/3 %) ("Attorneys' Fee(s)" or "Contingency Fee(s)"). This Attorneys' Fee is not set by law but is negotiable between the City and Counselors.

Counselors shall be entitled to such Contingency Fees regardless of whether the recoveries are a result of an accounting, settlement, judgment, litigation, ordinance, legislation, voluntary payment, credit, refund, adjustment, offset, reduction in future charges, protest suit, or some other method or source. Counselors' Contingent Fee shall be allocated among City and any other participants in the recovery in proportion to the gross amount of that recovery by each participant.

City and Counselors acknowledge that the litigation may result in the payment of either or both of Franchise Fees for periods before the effective date of any final court judgment, settlement agreement, or other document establishing the right to a recovery (such effective date hereafter referred to as the "Effective Date" and such Franchise Fees for periods before the Effective Date hereafter referred to as "Historical Franchise Fees") and Franchise Fees for periods on or after the Effective Date ("Prospective Franchise Fees").

City and Counselors also acknowledge that resolution of the Litigation might discount Historical Franchise Fees for Prospective Franchise Fees. If the amount of Historical Franchise Fees paid from a source by judgment, agreement, or otherwise is less than the sum of what that source would have paid, in full, in Franchise Fees for all fiscal quarters preceding the Effective Date (the "Benchmark Franchise Fees"), then Counselors shall be entitled to Attorneys' Fees in the amount of 33 1/3 % of the gross amount of that source's payments of Prospective Franchise Fees until the total Franchise Fees paid by that source equal the Historical Franchise Fees. However, Counselors shall not, in any circumstance, collect from the City more than 33 1/3% of the City's total recovery.

The sole contingency upon which the City will pay Fees to Counselors is a recovery and collection on behalf of the City, whether by settlement, court judgment, or otherwise.

2. **Gross Recovery.**

The term "Gross Recovery" shall include, without limitation, the then present value of any monetary payments agreed or ordered to be made and the fair market value of any property or services agreed or ordered to be made and the fair market value of any property or services agreed or ordered to be transferred or rendered for the benefit of the City by the adverse parties to the Litigation or their insurance carrier(s), whether by settlement, court judgment, or otherwise.



If payment of any part of the relief to the City will be in the form of property and services ("In Kind"), the value of such property and services for purposes of calculating the Gross Recovery shall be calculated based on the present value, as of the time of the settlement or final court judgment, of the In Kind relief to be received thereafter. The Attorneys' Fees for the value of the In Kind relief shall be paid out of any initial lump-sum payment by the defendants. If the initial lump sum payment is insufficient to pay the Attorneys' Fees in full, the balance will be paid from subsequent payments on the recovery before any distribution to the City.

If the Parties disagree with respect to the value of any In Kind relief, they will proceed as follows: Within thirty (30) days each party will select an appraiser qualified to conduct an appraisal of the value of the In Kind relief. Each Party's selected appraiser will thereafter meet and confer. If resolution of the dispute is not reached within sixty (60) days of the initial meet and confer, the appraisers will select a third qualified appraiser within fifteen (15) days. The third appraiser's valuation will be final and binding on the Parties.

Notwithstanding the foregoing, if there is no monetary recovery and the City receives In Kind relief, Attorneys' Fees will be based on the value of the In Kind relief, which will be determined through the mutual agreement of the Parties. If the Parties disagree with respect to the values of any In Kind relief, they will proceed with an appraisal process as set forth above. If there is no monetary recovery, all Attorneys' Fees and Costs due to Counselors under this Contract shall be paid from the City's funds at the time of recovery and collection.

### 3. Costs.

It will be necessary for Counselors to incur and advance certain court costs and other types of expenses for the City ("Costs"). These Costs and other expenses may include, but are not limited to, the following: filing and service fees; costs of investigative services; travel expenses (including air fare, ground transportation, vehicle mileage, lodging, and meals); deposition expenses and court reporters fees; outside trial services providers; trial equipment rental and operation fees; preparation of exhibits and graphics; the costs of briefs and transcripts on appeal, and miscellaneous copying, postage, shipping, and courier expenses. In addition, it will be necessary to employ expert witnesses and Counselors, with prior approval from the City, may employ and pay these expert witnesses, and such expenditures shall be included within Costs.

The City agrees to reimburse Counselors for all reasonable Costs out of its share of the Gross Recovery, after the payment of Attorneys' Fees specified in Sections 1 and 2 above.

The City understands that Counselors may incur certain expenses, including, for example, expenses for travel, experts, and copying that jointly benefit multiple cities in the Litigation. The City agrees that Counselors may allocate such expenses among such cities based on their pro rata share of the relief obtained, or on any other reasonable basis of which all affected clients are fully informed.

In some instances, it may be necessary for Counselors to retain special outside counsel to assist on matters other than prosecuting the City's claims. Examples of such instances include: a defendant may seek bankruptcy protection; a defendant may attempt to fraudulently transfer some of its assets to avoid paying the City's claim; a complex, multi-party settlement may require an

ethics opinion from outside counsel; or a separate lawsuit may need to be filed against a defendant's insurance company. The City agrees that Counselors, with written permission of the City, may retain such special outside counsel to represent the City when Counselors deem such assistance to be reasonably necessary. In such an instance, the fees of such special outside counsel shall be advanced by Counselors, shall be deemed a part of Costs, and as such shall be reimbursed to Counselors by the City from its share of the Gross Recovery provided that (1) the City finds that such costs were reasonable, proper, necessary, and were actually incurred on behalf of the City, and (2) such costs were in compliance with, and do not exceed, the rates and limits provided in Section 8.8 of Exhibit A. If there is no recovery, Counselors will be solely responsible for payment of the Cost.

McKool Smith, P.C.'s (McKool) obligation to incur and advance Costs, on behalf of (a) the City, and (b) all other Texas municipalities, or government subdivisions joined in the Litigation (regardless of whether they are later severed or dismissed from the Litigation) or with similar claims represented by Counselors is capped at a total of \$480,000. All Costs over and above \$480,000 that would otherwise be advanced or incurred by McKool will be advanced and incurred by Korein Tillery LLC.

**4. Application for Attorneys' Fees.**

The City and Counselors intend to seek an order for payment by Defendants of the City's Attorneys' Fees and Costs (as defined in Sections 1-3 above), if the City prevails, in whole or in part, in the Litigation. The City agrees to use its best efforts to support any such application.

If the amount of the Attorneys' Fees awarded and collected from a court order regarding Attorneys' Fees and Costs exceeds the amount called for under the contingency fee calculation in Section 1 of Exhibit A, Counselors shall be entitled to the amount of the Attorneys' Fee awarded and collected from the Defendants as a reasonable fee, in lieu of payment by the City of the Attorneys' Fee. If, however, the amount of the Attorneys' Fee awarded and collected from a court order regarding Attorneys' Fees and Costs is less than the amount as calculated under the Contingency Fee, Counselor's Attorneys' Fee shall remain as calculated by the Contingency Fee calculation in Paragraph 1 of Exhibit A, and, in that instance, the City may direct that the statutory attorneys' fee award be paid directly to Counselors by the Defendants, and the City shall pay the difference between the Contingency Fee and the attorneys' fee awarded out of the City's recovery in the Litigation.

**5. Reasonableness.**

The City and Counselors have discussed the reasonableness of the contingency fees provided for in this Contract, as opposed to an hourly rate, a fixed fee, quantum merit, or some other possible basis for calculating the Attorneys' Fees to be paid to Counselors. The City and Counselors agree that under all the circumstances a contingency fee is the most reasonable and equitable way to compensate Counselors in light of the effort required, the risks to be undertaken in the Litigation, and other applicable factors. The City and Counselors further understand that the substantial effort required will not be compensated if there is no recovery. Therefore, the City agrees that it will not contest the reasonableness or fairness of this contingency fee contract.

6. **Possible Efforts of Defendants to Invalidate Agreement.**

The City and Counselors are aware that, in the past, defendants in litigation involving public entities have challenged and sought to invalidate contingency fee arrangements between public entities and outside counsel. The City and Counselors believe that any such challenges to this Contract would lack merit and that this contingency fee arrangement as set forth above is valid and in the public interest. The City agrees to join Counselors in opposing any such challenge. However, if this contingency fee contract is found to be invalid, Counselors agree to continue to represent the City. Under said circumstances, if there is a recovery, Counselors shall be compensated based on the reasonable value of its legal services and will be reimbursed for Costs. If there is no recovery, the City will owe nothing for Attorneys' Fees or Costs.

7. **Division of Attorneys' Fees.**

Counselors may divide the Attorneys' Fees received for the legal services provided under this Contract with other attorneys or law firms retained as associate counsel and approved by the City in writing. The terms of the division, if any, will be disclosed to the City. The City is informed that, under the Rules of Professional Conduct of the State Bar of Texas, such division may be made only with the City's written consent after a full disclosure to the City in writing that a division of Attorneys' Fees will be made, the identity of the lawyer or law firms involved, the basis upon which Attorneys' Fees will be divided, and of the terms of such division. The City will not unreasonably withhold approval of associate counsel recommended by Counselors or unreasonably refuse to consent to a proposed division of Attorneys' Fees among counsel.

8. **Recitals Pursuant to Tex. Gov't Code Ch. 2254.**

- 8.1 Counselors shall keep current and complete written time and expense records that describe in detail the time and money spent each day in performing the contract, as required under Tex. Gov't Code § 2254.104(a).
- 8.2 Counselors shall permit the governing body or governing officer of the City, the attorney general, and the state auditor, or other officials as appropriate, to inspect or obtain copies of the time and expense records at any time on request, as required under Tex. Gov't Code § 2254.104(b).
- 8.3 On conclusion of the matter for which Counselors were obtained, Counselors shall provide the City with a complete written statement that describes the outcome of the matter, states the amount of any recovery, shows the Counselors' computation of the amount of the contingent fee, and contains the final complete time and expense records, as required under Tex. Gov't Code § 2254.104(c). The complete written statement required under this section is public information subject to disclosure under Tex. Gov't Code § 2254.104(d).
- 8.4 All time and expense records required herein are public information subject to required public disclosure under Texas Government Code Chapter 552. Information in the records may be withheld from a member of the public under Section 552.103 only if, in addition to meeting the requirements of Section 552.103,

the City Attorney determines that withholding the information is necessary to protect the City's strategy or position in pending or reasonably anticipated litigation. Information withheld from public disclosure shall be segregated from information that is subject to required public disclosure. Public disclosure may not be withheld, and is required, regarding the written statement required by Tex. Gov't Code § 2254.104(d).

- 8.5 Any subcontracted legal or support services performed by a person who is not a contracting attorney, partner, shareholder, or employee of Counselors is an expense subject to reimbursement only in accordance with Tex. Gov't Code § 2254.105(4).
- 8.6 The method for payment of litigation and other expenses and, if reimbursement of any expense is contingent on the outcome of the matter or reimbursable from the amount recovered in the matter, whether the amount recovered for purposes of the contingent fee computation is the amount obtained before or after expenses are deducted, as required under Tex. Gov't Code § 2254.105(3).
- 8.7 The amount of the contingent fee and reimbursement of expenses under the Contract will be paid and limited in accordance with Tex. Gov't Code § 2254.105(5).
- 8.8 Counselors' contingent fee is limited to the lesser of 1) the contingent fee set forth in paragraph 1. above or 2) four times Counselors' base fee, as that term is used in Tex. Gov't Code § 2254.106.

Because of the expected difficulties in performing the work under this Agreement, the amount of expenses expected to be risked by Counselors, the expected risk of no recovery, and the expected long delay in recovery, a reasonable multiplier for the base fee in this matter is four. Counselors' reasonable hourly rate for the work performed under the Agreement is \$990 an hour for principals and partners of any members of the three Counselors' firms, \$855 for of counsel/senior counsel, \$795 an hour for senior level associates practicing 10 years or more; \$550 per hour for other attorneys, and \$325 per hour for paralegals or law clerks consistent based on the reasonable and customary rate in the relevant locality for the type of work performed and on the relevant experience, demonstrated ability, and standard hourly billing rate, if any, of the person performing the work, as required under Tex. Gov't Code §2254.106(a). These rates apply to the subcontracted work performed, if any, by an attorney, law clerk, or paralegal. The base fee will be computed pursuant to Subchapter C, Chapter 2254 of the Texas Gov't Code by multiplying the number of hours the attorney, paralegal or law clerk worked in providing legal or support services for the City times the reasonable hourly rate for the work performed by the attorney, paralegal or law clerk. The base fee is computed by adding the resulting amounts. The computation of the base fee does not include hours or costs attributable to work performed by a person who is not employed by Counselors.

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**CITY COUNCIL AGENDA**  
**October 18, 2022**

---

**ITEM/SUBJECT:** Resolution authorizing the City Manager to award bid and contract for the 2022 Lift Station 36, 52 & 69 Rehabilitation Project to Bowles Construction Co. in the amount of \$613,275.00

**INITIATING DEPT:** Public Works

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**STRATEGIC GOAL:** Provide Quality Infrastructure

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

---

**COMMENTARY:** On August 2, 2022, bids were opened for the 2022 Lift Station 36 & 69 Rehabilitation Project. This project is generally described as the rehabilitation of sewer lift stations 36 & 69, including the replacement of pumps, motors, control panels, and associated work.

The bids received for this project on the Base Bid are as follows:

<u>COMPANY</u>	<u>AMOUNT</u>
Bowles Construction Co.                      Wichita Falls, TX	\$613,275.00

Construction of this project should require approximately 150 consecutive days to complete.

Bowles Construction Co. is a local contractor that has performed work for the City in the past and therefore staff recommends award of the contract to Bowles Construction Co in the amount of \$613,275.00, based on unit price quantities.

☒ **Director, Public Works**

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**ASSOCIATED INFORMATION:** Resolution, Bid Tab, Location Map

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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

**Resolution authorizing the City Manager to award bid and contract for the 2022 Lift Station 36, 52 & 69 Rehabilitation Project to Bowles Construction Co. in the amount of \$613,275.00**

WHEREAS, the City of Wichita Falls has advertised for bids for the 2022 Lift Station 36, 52 & 69 Rehabilitation Project; and,

WHEREAS, it is found that the lowest responsible bidder is Bowles Construction Co. who made a unit price bid with an estimated total of \$613,275.00.

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

The unit price bid for the 2022 Lift Station 36, 52 & 69 Rehabilitation Project is awarded to Bowles Construction Co. in an estimated total amount of \$613,275.00, and the City Manager is authorized to execute a contract for the City with said Contractor for the construction of such project.

PASSED AND APPROVED this the 18<sup>th</sup> day of October, 2022.

\_\_\_\_\_  
MAYOR

ATTEST:

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

2022 Lift Station 36, 52 & 69 Rehabilitation Project  
CWF22-550-07  
BID DATE: August 2, 2022

BASE BID			
Pay Item	Description	Unit	Quantity
200.1	Mobilization (Not to Exceed 5%)	LS	1
202.1	Tree and Tree Stump Removal	LS	1
203.3	Site Prep	LS	1
301.1	Flex Base Access Road	SY	257
600-EP	Electrical Panel Component Installation	EA	2
600-PM-36	Install New Pumps & Motors for Lift Station 36	EA	1
600-PM-69	Install New Pumps & Motors for Lift Station 69	EA	1
600-R	Remove & Salvage Existing Pumps	EA	2
600-TP	Temporary Bypass Pumping	EA	2
700-CW	Install New Aluminium Catwalk Structure	EA	1
702.8-T	Remove & Replace Concrete Top	EA	1
702.8-WW	Install Concrete Wet Well	EA	1
702.8-WWE	Install Concrete Wet Well Extension	EA	1
702.8-VV	Install Concrete Valve Vault	EA	1
801.4-6	6' Chain Link Fence with Barb Top	LF	80
801.5-MG	Metal Barrier Gate	EA	1
805-ESP	Electrical Service Pole	EA	1
<b>Engineers Estimate: \$450,000.00</b>			

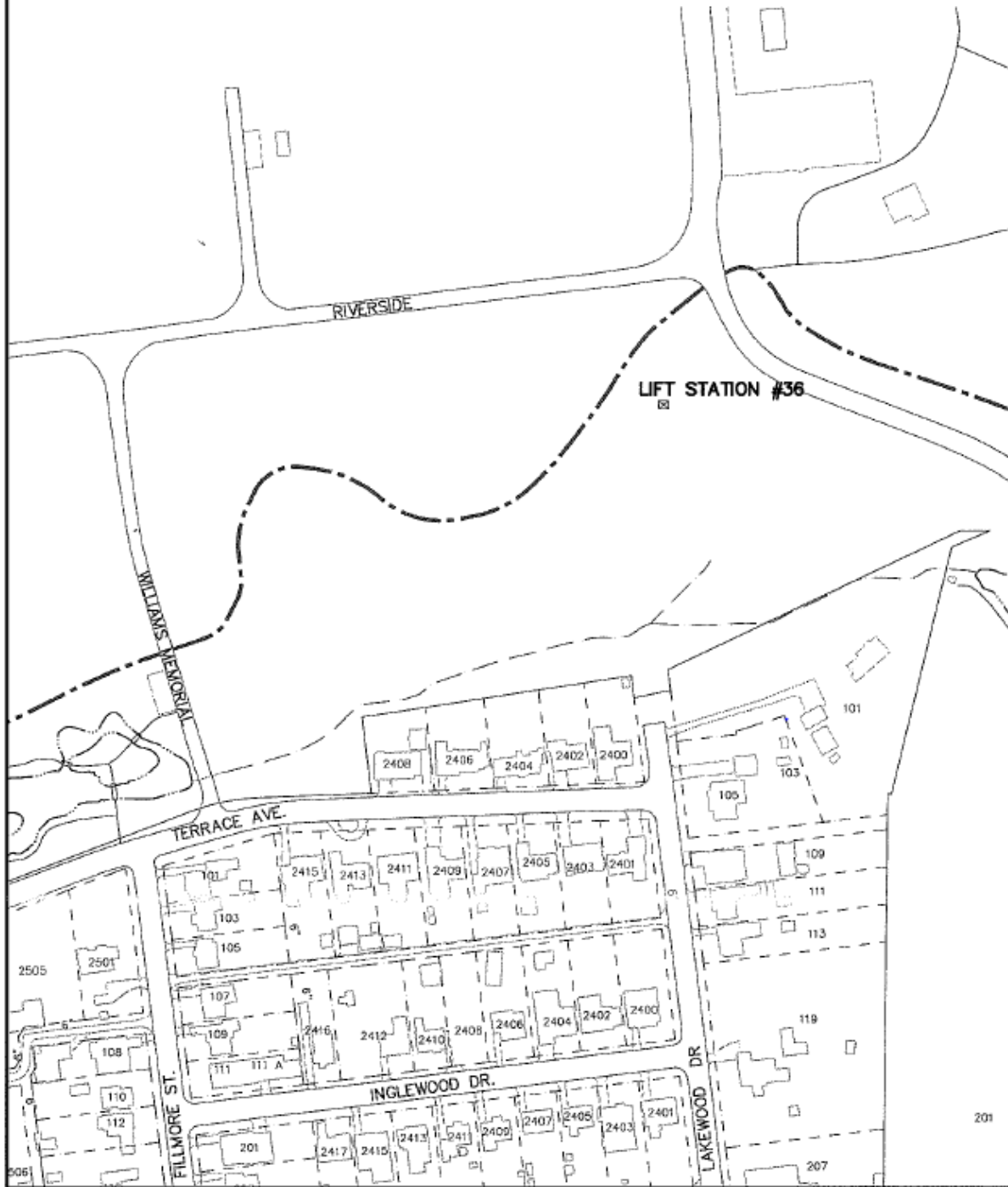
Bowles Construction Co., Wichita Falls, TX	
Unit Price	Total
\$20,000.00	\$20,000.00
\$6,000.00	\$6,000.00
\$20,000.00	\$20,000.00
\$30.00	\$7,710.00
\$53,920.00	\$107,840.00
\$101,300.00	\$101,300.00
\$152,725.00	\$152,725.00
\$8,000.00	\$16,000.00
\$31,000.00	\$62,000.00
\$27,000.00	\$27,000.00
\$12,000.00	\$12,000.00
\$20,000.00	\$20,000.00
\$21,000.00	\$21,000.00
\$16,000.00	\$16,000.00
\$140.00	\$11,200.00
\$5,000.00	\$5,000.00
\$7,500.00	\$7,500.00
<b>TOTAL</b>	<b>\$613,275.00</b>

ADD/ALT - LIFT STATION 52			
Pay Item	Description	Unit	Quantity
203.3-ALT	Site Prep	LS	1
600-EP-ALT	Electrical Panel Component Installation	EA	1
600-PM-52-ALT	Install New Pumps & Motors for Lift Station 52	EA	1
600-R-ALT	Remove & Salvage Existing Pumps	EA	1
600-TP-ALT	Temporary Bypass Pumping	EA	1
702.8-WW-ALT	Install Concrete Wet Well	EA	1
702.8-VV-ALT	Install Concrete Valve Vault	EA	1
805-ESP-ALT	Electrical Service Pole	EA	1
<b>Engineers Estimate: \$170,000.00</b>			

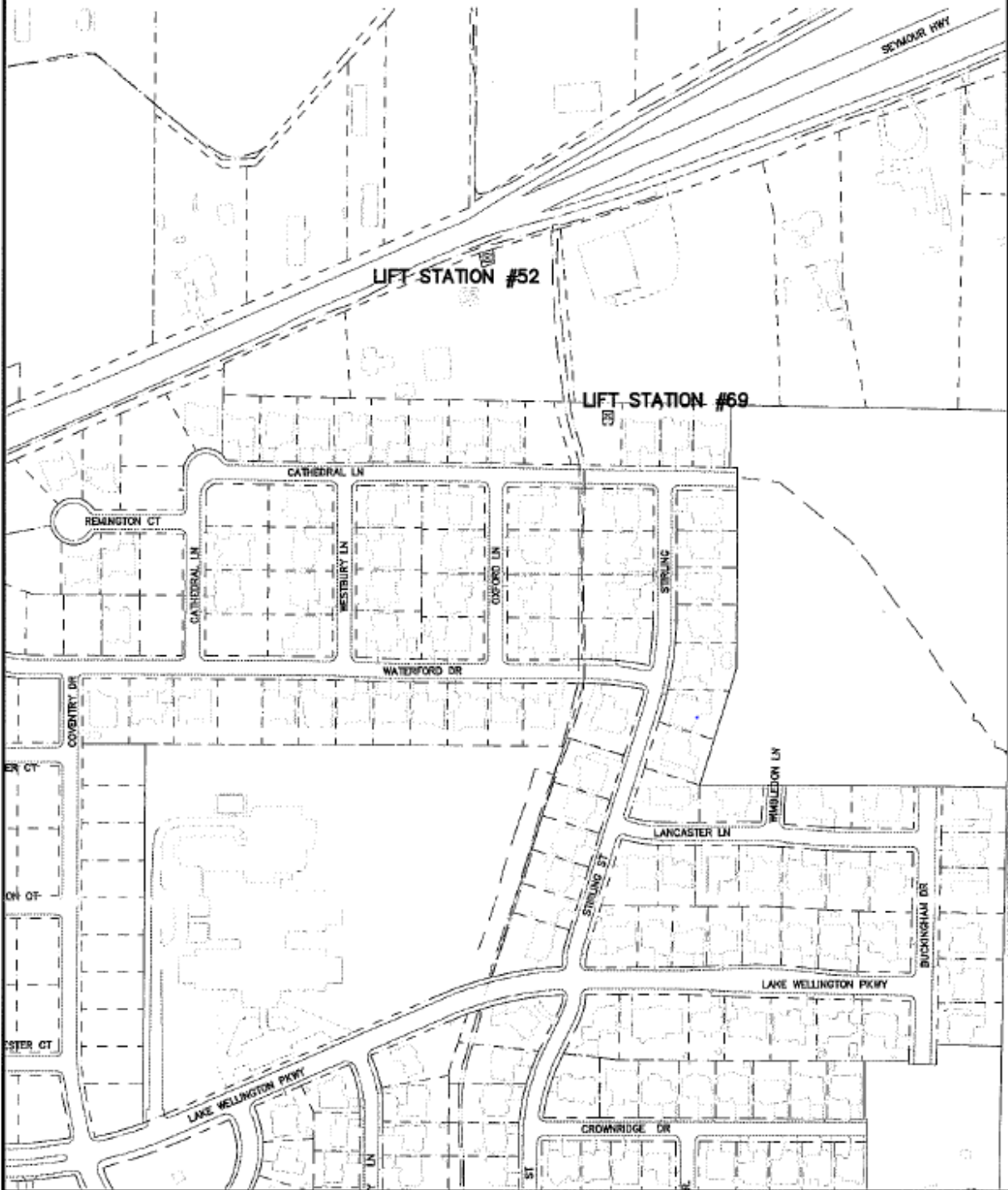
Bowles Construction Co., Wichita Falls, TX	
Unit Price	Total
\$15,000.00	\$15,000.00
\$52,420.00	\$52,420.00
\$110,852.00	\$110,852.00
\$8,000.00	\$8,000.00
\$31,000.00	\$31,000.00
\$22,000.00	\$22,000.00
\$16,000.00	\$16,000.00
\$7,500.00	\$7,500.00
<b>TOTAL</b>	<b>\$262,772.00</b>



2022 LIFT STATION 36, 52 & 69  
REHABILITATION PROJECT  
CWF22-550-07



2022 LIFT STATION 36, 52 & 69  
REHABILITATION PROJECT  
CWF22-550-07



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**CITY COUNCIL AGENDA**  
**October 18, 2022**

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**ITEM/SUBJECT:** Resolution authorizing the City Manager to approve change order No. 1 & Final for the Hike & Bike Trail west of Lake Wichita Park to Marina for a reduction of \$38,729.70

**INITIATING DEPT:** Public Works

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**STRATEGIC GOAL:** Provide Adequate Infrastructure

**STRATEGIC OBJECTIVE:** Complete Public Improvement Projects

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**COMMENTARY:** On December 22, 2020, bids were opened for the Hike & Bike Trail west of Lake Wichita Park to Marina. This project is generally described as the construction of new concrete trail, and associated work extending from west of Lake Wichita Park to Larry's Marine Property.

The project is now complete and the final documentation is being processed. This Change Order would reduce the project construction costs by \$38,729.70 and balance plan quantities to final in-place quantities to allow for acceptance of the project.

Staff recommends approval of Change Order No 1 & Final for the Hike & Bike Trail west of Lake Wichita Park to Marina in order to close-out this project.

☒ **Public Works Director**

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**ASSOCIATED INFORMATION:** Resolution , Change Order No. 1 & Final

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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

**Resolution authorizing the City Manager to approve change order No. 1 & Final for the Hike & Bike Trail west of Lake Wichita Park to Marina for a reduction of \$38,729.70**

WHEREAS, the City of Wichita Falls has tabulated the final quantities for Change Order No. 1 & Final for a reduction of \$38,729.70 for a final contract amount of \$1,416,650.30.

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

The City Manager is authorized to execute Change Order No. 1 & Final for the Hike & Bike Trail west of Lake Wichita Park to Marina in the amount of a reduction of \$38,729.70,

PASSED AND APPROVED this the 18<sup>th</sup> day of October, 2022.

\_\_\_\_\_  
MAYOR

ATTEST:

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

<b>CITY OF WICHITA FALLS, TEXAS</b> <b>CONTRACT CHANGE ORDER FORM</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">CHANGE ORDER NO.:</td> <td style="width: 40%;">1 &amp; FINAL</td> </tr> <tr> <td>DATE:</td> <td>8/31/2022</td> </tr> <tr> <td>AMOUNT OF CHANGE:</td> <td>\$ (38,729.70)</td> </tr> </table>	CHANGE ORDER NO.:	1 & FINAL	DATE:	8/31/2022	AMOUNT OF CHANGE:	\$ (38,729.70)
CHANGE ORDER NO.:	1 & FINAL						
DATE:	8/31/2022						
AMOUNT OF CHANGE:	\$ (38,729.70)						
<b>PROJECT/CONTRACT:</b> Hike & Bike Trail west of Lake Wichita Park to Marina, CWF18-444-14							
TO: Earth Builders, LP, this Change Order, after approval by the Owner, will be your (Contractor) authority to make the following changes in the work under your contract:							
Description of Changes	Decrease in Contract	Increase in Contract	Total Change in Contract				
With this change order, it will modify some of the plan quantities to final in-place quantities for the Base Bid.							
Item 168-6001, Vegetative Watering	\$ 1,000.00	\$ -	\$ (1,000.00)				
Decreased 10 MG at \$100.00 per MG for a final total of 30 MG							
Item 432-6033, Riprap (Stone Protection) (18IN)	\$ -	\$ 1,786.00	\$ 1,786.00				
Increased 18.8 CY at \$95.00 per CY for a final total of 128.8 CY							
Item 450-6051, Rail (Handrail) (TY E)	\$ 625.00	\$ -	\$ (625.00)				
Decreased 5 LF at \$125.00 per LF for a final total of 315 LF							
Item 506-6024, Construction Exits (Remove)	\$ 1,852.00	\$ -	\$ (1,852.00)				
Decreased 244 SY at \$8.00 per SY for a final total of 176 SY							
Item 506-6038, Temp Sedmt Cont Fence (Install)	\$ 2,779.40	\$ -	\$ (2,779.40)				
Decreased 1069 LF at \$2.60 per LF for a final total of 1131 LF							
Item 506-6039, Temp Sedmt Cont Fence (Remove)	\$ 1,069.00	\$ -	\$ (1,069.00)				
Decreased 1069 LF at \$1.00 per LF for a final total of 1131 LF							
Item 531-6003, Conc Sidewalks (6")	\$ 12,481.60	\$ -	\$ (12,481.60)				
Decreased 165.77 SY at \$80.00 per SY for a final total of 1644.23 SY							
With this change order, it will modify some of the plan quantities to final in-place quantities for the Add/Alt #1.							
Item 168-6001, Vegetative Watering	\$ 1,500.00	\$ -	\$ (1,500.00)				
Decreased 15 MG at \$100.00 per MG for a final total of 15 MG							
Item 432-6033, Riprap (Stone Protection) (18IN)	\$ -	\$ 342.00	\$ 342.00				
Increased 3.6 CY at \$96.00 per CY for a final total of 33.6 CY							
Item 450-6051, Rail (Handrail) (TY E)	\$ 375.00	\$ -	\$ (375.00)				
Decreased 3 LF at \$125.00 per LF for a final total of 97 LF							
Item 529-6002, Conc Curb (TY II)	\$ 140.00	\$ -	\$ (140.00)				
Decreased 7 LF at \$20.00 per LF for a final total of 121 LF							
Item 531-6003, Conc Sidewalks (8")	\$ 8,170.40	\$ -	\$ (8,170.40)				
Decreased 102.13 SY at \$80.00 per SY for a final total of 897.87 SY							
Item 506-6038, Temp Sedmt Cont Fence (Install)	\$ 416.00	\$ -	\$ (416.00)				

Decreased 160 LF at \$2.60 per LF for a final total of 640 LF			
Item 506-6039, Temp Sedmt Cont Fence (Remove)	\$ 160.00	\$ -	\$ (160.00)
Decreased 160 LF at \$1.00 per LF for a final total of 640 LF			
With this change order, it will modify some of the plan quantities to final in-place quantities for the Add/Alt #2.			
Item 168-6001, Vegetative Watering	\$ 1,500.00	\$ -	\$ (1,500.00)
Decreased 15 MG at \$100.00 per MG for a final total of 15 MG			
Item 432-6033, Riprap (Stone Protection) (18IN)	\$ -	\$ 1,016.50	\$ 1,016.50
Increased 10.7 CY at \$95.00 per CY for a final total of 40.7 CY			
Item 450-6051, Rail (Handrail) (TY E)	\$ 125.00	\$ -	\$ (125.00)
Decreased 1 LF at \$125.00 per LF for a final total of 159 LF			
Item 506-6038, Temp Sedmt Cont Fence (Install)	\$ 598.00	\$ -	\$ (598.00)
Decreased 230 LF at \$2.80 per LF for a final total of 570 LF			
Item 506-6039, Temp Sedmt Cont Fence (Remove)	\$ 230.00	\$ -	\$ (230.00)
Decreased 230 LF at \$1.00 per LF for a final total of 570 LF			
Item 531-6003, Conc Sidewalks (6")	\$ 8,772.80	\$ -	\$ (8,772.80)
Decreased 109.66 SY at \$80.00 per SY for a final total of 890.34 SY			
<b>TOTAL</b>	<b>\$ 41,874.20</b>	<b>\$ 3,144.50</b>	<b>\$ (38,729.70)</b>
<b>AMOUNT OF ORIGINAL CONTRACT:</b>			<b>\$ 1,456,140.00</b>
<b>TOTAL AMOUNT OF THIS CHANGE ORDER:</b>			<b>\$ (38,729.70)</b>
<b>TOTAL AMOUNT OF PREVIOUS CHANGE ORDERS:</b>			<b>\$ -</b>
<b>CONTRACT AMOUNT TO DATE:</b>			<b>\$ 1,417,410.30</b>
The completion time under your contract will be extended by zero (0) days because of this change order making the revised completion date August 22, 2022.			
Accepted By Contractor:	Recommended By Arch/Eng: (If applicable)	Approved By Owner:	
By: <u>[Signature]</u>	By: <u>T. D. Smith, PE</u>	By: _____	
Title: <u>EVP</u>	Title: <u>City Engineer</u>	Title: <u>City Manager</u>	
Date: <u>8/31/2022</u>	Date: <u>8-31-22</u>	Date: _____	
Accepted By TxDOT:			
By: <u>Monty Brown</u>			
Title: <u>Director of Construction</u>			
Date: <u>9/16/22</u>			

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**CITY COUNCIL AGENDA**  
**October 18, 2022**

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**ITEM/SUBJECT:** Resolution authorizing the City Manager to award bid and contract for the 2022 Drainage Maintenance Repairs to Chad & Brandi Inc. DBA Wilson Contracting in the amount of \$545,156.16.

**INITIATING DEPT:** Public Works

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**STRATEGIC GOAL:** Provide Adequate Infrastructure

**STRATEGIC OBJECTIVE:** Complete Public Improvements Projects

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**COMMENTARY:** On September 6, 2022, bids were opened for the 2022 Drainage Maintenance Repairs. This project is generally described as the repair of storm water drainage at various locations, secondary reservoir concrete rip rap repair, and associated work. The Engineer's estimate for this project is \$600,000.00

The bids received for this project are as follows:

<u>COMPANY</u>	<u>AMOUNT</u>
Chad and Brandi Inc. DBA Wilson Contracting – Wichita Falls, TX	\$545,156.16
Scales Concrete Construction Co. Inc. – Wichita Falls, TX	\$689,532.00
Earth Builders, L.P. – Decatur, TX	\$717,248.00

Construction time allotted for the project is 180 consecutive days. Funding for the project is available in the Water and Stormwater Utilities funds.

Staff has recently had discussions with the current officers and operational staff at the company and is confident they can complete the project as bid and on time.

Chad and Brandi Inc. DBA Wilson Contracting has successfully completed similar projects for the City and staff recommends award of the contract to Chad and Brandi Inc. DBA Wilson Contracting, based on unit price quantities.

☒ **Director, Public Works**

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**ASSOCIATED INFORMATION:** Resolution, Bid Tab, Location Map

☒ **Budget Office Review**

☒ **City Attorney Review**

☒ **City Manager Approval**

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

**Resolution authorizing the City Manager to award bid and contract for the 2022 Drainage Maintenance Repairs to Chad and Brandi Inc. DBA Wilson Contracting in the amount of \$545,156.16**

WHEREAS, the City of Wichita Falls has advertised for bids for the 2022 Drainage Maintenance Repairs; and,

WHEREAS, it is found that the lowest responsible bidder is Chad and Brandi Inc. DBA Wilson Contracting who made a unit price bid with an estimated total of \$545,156.16.

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

The unit price bid for the 2022 Drainage Maintenance Repairs is awarded to Chad and Brandi Inc. DBA Wilson Contracting in an estimated total amount of \$545,156.16, and the City Manager is authorized to execute a contract for the City with said Contractor for the construction of such project.

PASSED AND APPROVED this the 18<sup>th</sup> day of October, 2022.

\_\_\_\_\_  
MAYOR

ATTEST:

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

**2022 Drainage Maintenance Repairs**

**CWF22-552-11**

**Bid Date: September 6, 2022**

BASE STREET BID ** ORDER OF BIDS FROM LOWEST TO HIGHEST **				Chad & Brandt Inc. DBA Wilson Contracting Wichita Falls, TX		Scales Concrete Construction Co. Inc. Wichita Falls, TX		Earth Builders, L.P. Decatur, TX	
Pay Item	Description	Unit	Project Totals	Unit Price	Total	Unit Price	Total	Unit Price	Total
107-TS	TRENCH SAFETY	LF	340	\$3.50	\$1,190.00	\$3.00	\$1,020.00	\$20.00	\$6,800.00
200.1	SITE PREP & MOBILIZATION (NOT TO EXCEED 5%)	LS	1	\$24,779.83	\$24,779.83	\$33,000.00	\$33,000.00	\$35,000.00	\$35,000.00
201	TEMPORARY EROSION CONTROL	LS	1	\$24,779.83	\$24,779.83	\$16,000.00	\$16,000.00	\$21,000.00	\$21,000.00
202.1	REMOVE DIRT AND PLANT MATERIAL	EA	4	\$3,500.00	\$14,000.00	\$5,000.00	\$20,000.00	\$1,800.00	\$7,200.00
202.6-SD	SOD PLACEMENT FOR EROSION PROTECTION	SY	696	\$12.25	\$8,526.00	\$27.00	\$18,792.00	\$8.00	\$5,568.00
203.3	UNCLASSIFIED EXCAVATION (REGRAVING)	SY	560	\$105.00	\$58,800.00	\$82.00	\$45,920.00	\$45.00	\$25,200.00
203.3-RR	REMOVE EXISTING CONCRETE RIPRAP	SY	440	\$56.00	\$24,640.00	\$36.00	\$15,840.00	\$45.00	\$19,800.00
203.3-RW	REMOVE EXISTING RETAINING WALL AND CONCRETE GUTTER	LS	1	\$1,750.00	\$1,750.00	\$14,000.00	\$14,000.00	\$47,500.00	\$47,500.00
301.5-AM	INSTALL ASPHALT MILLINGS FROM RIVER ROAD	SY	730	\$49.00	\$35,770.00	\$40.00	\$29,200.00	\$35.00	\$25,550.00
303-CC	INSTALL REINFORCED CONCRETE COLLAR	EA	2	\$3,500.00	\$7,000.00	\$4,900.00	\$9,800.00	\$2,500.00	\$5,000.00
303-RR-4	INSTALL 4" REINFORCED CONCRETE RIPRAP	SY	578	\$126.00	\$72,828.00	\$165.00	\$95,370.00	\$210.00	\$121,380.00
303-RR-6	INSTALL 6" REINFORCED CONCRETE RIPRAP	SY	6	\$133.00	\$798.00	\$225.00	\$1,350.00	\$250.00	\$1,500.00
305.1-DC	INSTALL DOWELED CURB	LF	490	\$35.00	\$17,150.00	\$22.00	\$10,780.00	\$25.00	\$12,250.00
402-A-C	PAVEMENT REPAIR (ASPHALT/CONCRETE)	SY	150	\$126.00	\$18,900.00	\$135.00	\$20,250.00	\$200.00	\$30,000.00
504.2	INSTALL FLOWABLE BACKFILL	CY	20	\$210.00	\$4,200.00	\$480.00	\$9,600.00	\$350.00	\$7,000.00
508.2	REMOVE EXISTING RCP STORM SEWER PIPE	LF	120	\$140.00	\$16,800.00	\$45.00	\$5,400.00	\$40.00	\$4,800.00
508.3-24	INSTALL 24" ADS STORM SEWER PIPE	LF	102	\$266.00	\$27,132.00	\$350.00	\$35,700.00	\$400.00	\$40,800.00
508.3-30	INSTALL 30" REINFORCED CONCRETE PIPE	LF	90	\$280.00	\$25,200.00	\$345.00	\$31,050.00	\$400.00	\$36,000.00
508.4-30	REMOVE EXISTING 30 " CORRUGATED METAL PIPE AND CONCRETE HEADWALL	LF	90	\$140.00	\$12,600.00	\$85.00	\$7,650.00	\$40.00	\$3,600.00
508.4-6-8	REMOVE EXISTING 6' AND 8' STORM SEWER PIPE AND HEADWALLS	LS	1	\$17,500.00	\$17,500.00	\$6,800.00	\$6,800.00	\$35,000.00	\$35,000.00
702-CW-RR	REMOVE AND REPLACE REINFORCED CHANNEL WALL	LF	115	\$210.00	\$24,150.00	\$530.00	\$60,950.00	\$500.00	\$57,500.00
702-HW-24	INSTALL REINFORCED CONCRETE HEADWALL & WINGWALLS	EA	1	\$4,900.00	\$4,900.00	\$8,500.00	\$8,500.00	\$14,000.00	\$14,000.00
702-HW-5'x5'	INSTALL CONCRETE HEADWALL AND WINGWALLS FOR 5'X5' RCBC	EA	2	\$7,000.00	\$14,000.00	\$21,000.00	\$42,000.00	\$20,500.00	\$41,000.00
702-RCBC	INSTALL 5' X 5' REINFORCED CONCRETE BOX CULVERT	LF	40	\$350.00	\$14,000.00	\$2,100.00	\$84,000.00	\$1,000.00	\$40,000.00
702-SHW	INSTALL SLOPING REINFORCED CONCRETE HEADWALL	EA	1	\$7,000.00	\$7,000.00	\$9,500.00	\$9,500.00	\$30,000.00	\$30,000.00
801	TRAFFIC CONTROL	LS	1	\$35,000.00	\$35,000.00	\$15,000.00	\$15,000.00	\$9,000.00	\$9,000.00
801.4-RR	REMOVE AND REPLACE 4' CHAINLINK FENCE	LF	125	\$63.00	\$7,875.00	\$220.00	\$27,500.00	\$60.00	\$7,500.00
803.3-24	INSTALL 24" ROCK RIPRAP	CY	91	\$262.50	\$23,887.50	\$160.00	\$14,560.00	\$300.00	\$27,300.00
<b>Total</b>					<b>\$545,156.16</b>	<b>Total</b>			<b>\$717,248.00</b>

**2022 DRAINAGE MAINTENANCE REPAIRS (CWF22-552-11)**

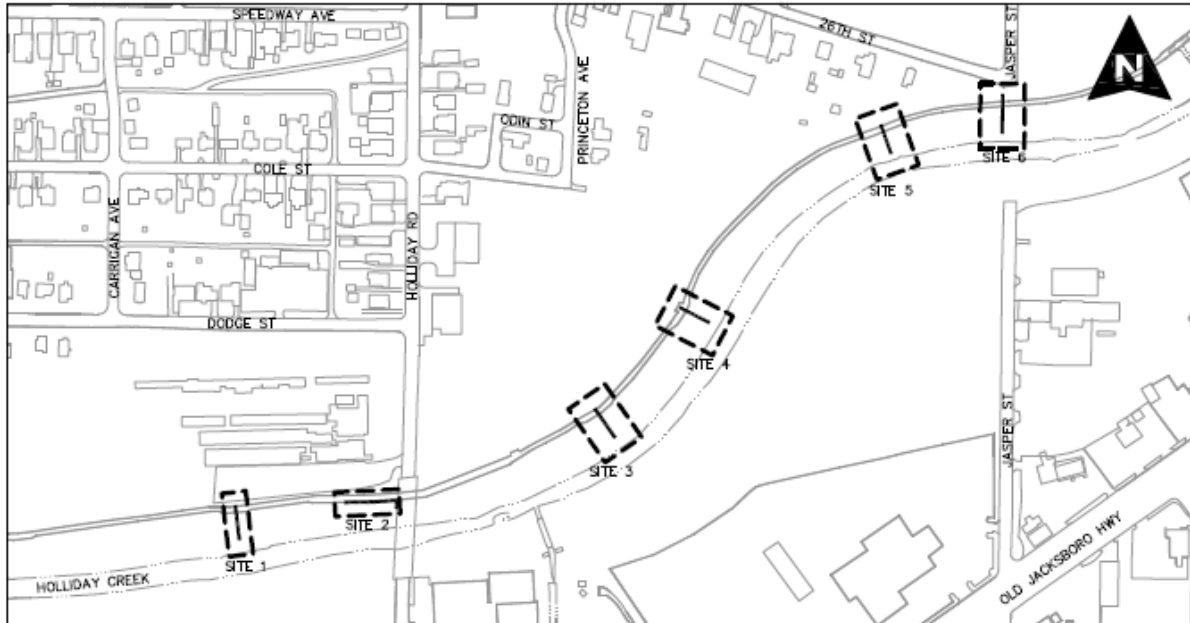
**TOTAL AWARD  
BASE BID**

**TOTAL AWARD      \$545,156.16**

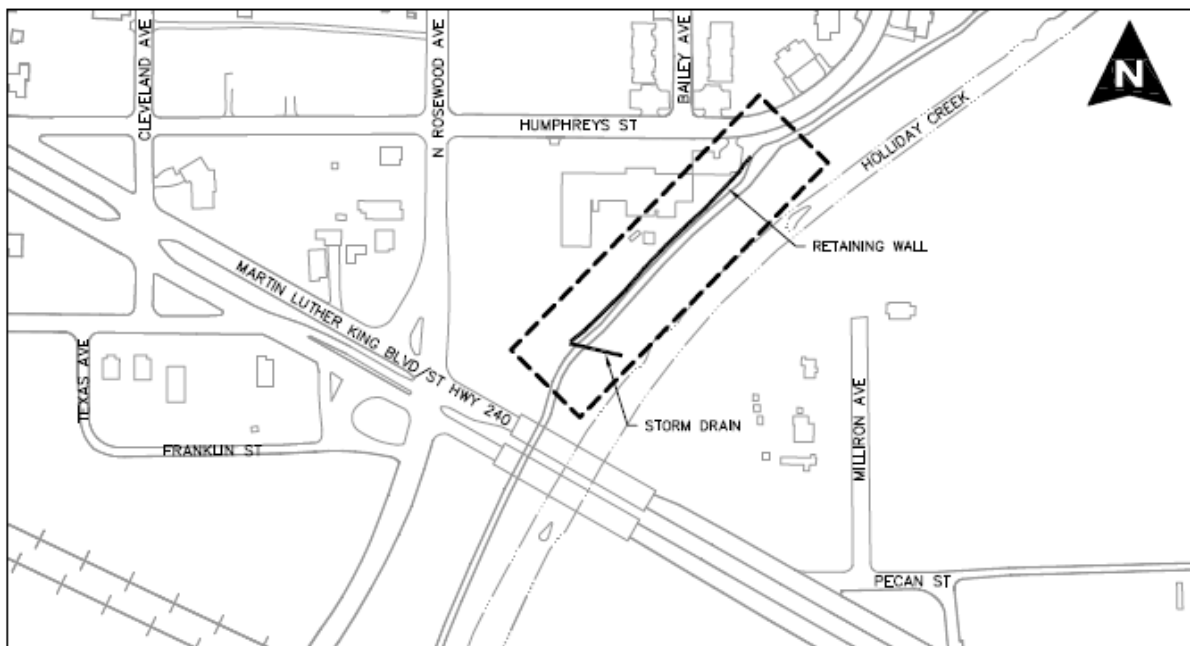
**TOTAL AWARD      \$689,532.00**

**TOTAL AWARD      \$717,248.00**

## 2022 DRAINAGE MAINTENANCE REPAIRS CWF22-552-11



SCALE: 1"=350'  
HOLLIDAY CREEK SITES 1-6

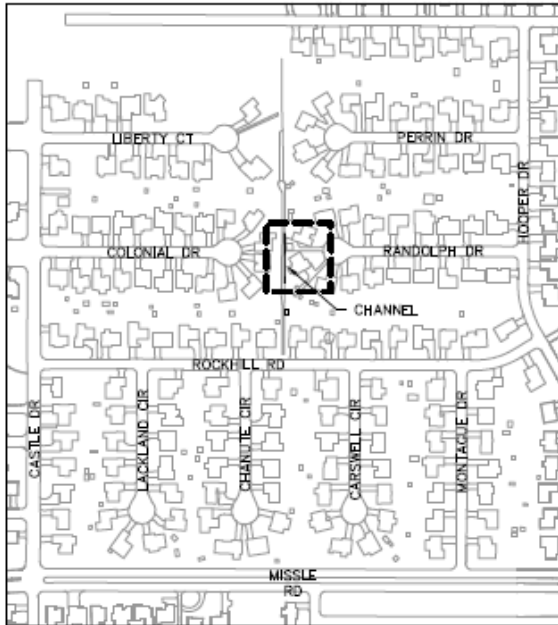


SCALE: 1"=250'  
HUMPHREY STREET RETAINING WALL & STORM DRAIN REPLACEMENT

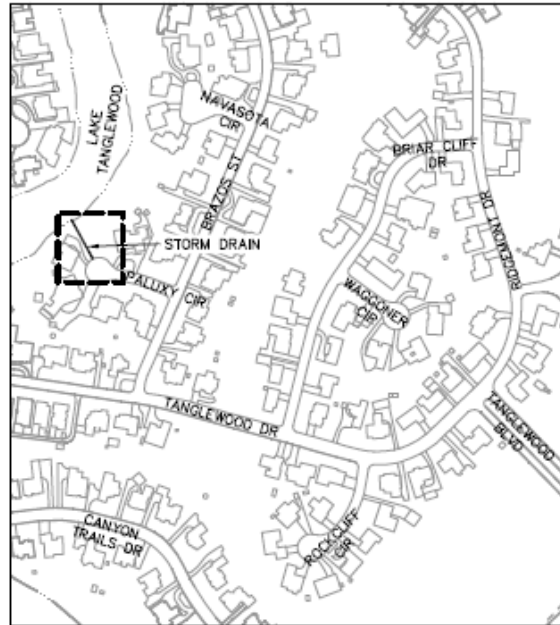
SHEET 1 OF 2

# 2022 DRAINAGE MAINTENANCE REPAIRS

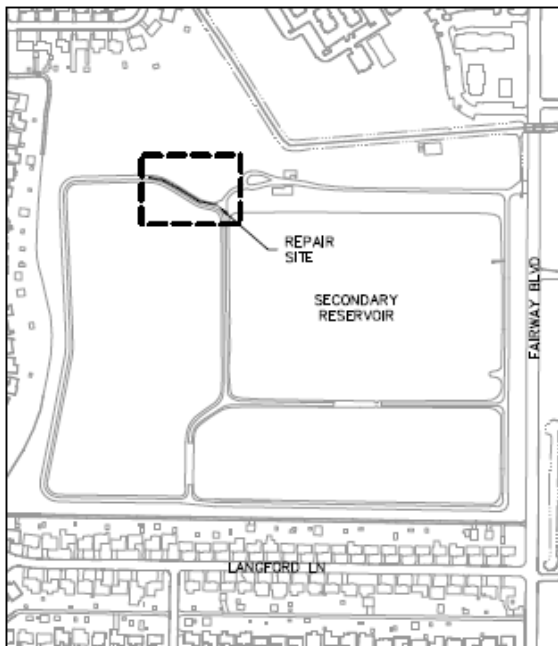
## CWF22-552-11



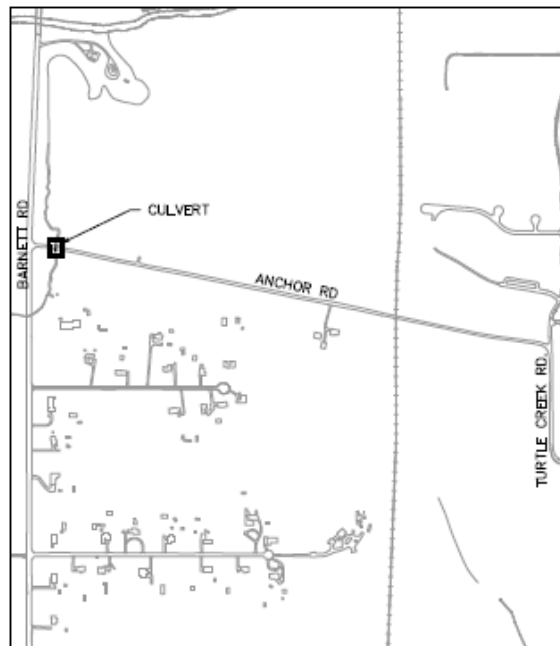
SCALE: 1"=450'  
RANDOLPH DR. CHANNEL REPAIR



SCALE: 1"=450'  
PALUXY CIR. STORM DRAIN REPLACEMENT



SCALE: 1"=550'  
SECONDARY RESERVOIR REPAIR



SCALE: 1"=1300'  
ANCHOR RD. CULVERT REPLACEMENT

SHEET 2 OF 2