

HEWITT TEXAS

CITY COUNCIL MEETING AGENDA

June 3, 2019

Workshop/Regular Meeting - 6:30 PM/7:00 PM

CITY HALL, 200 PATRIOT COURT

HEWITT, TX 76643

MAYOR AND CITY COUNCIL

Charlie Turner – Mayor, Ward 1

Wilbert Wachtendorf – Mayor Pro Tem, Ward 1

Bill Fuller – Council Member, Ward 2

Matthew Mevis – Council Member, Ward 2

Steve Fortenberry – Council Member, Ward 3

Erica Bruce – Council Member, Ward 3

Vacant – Council Member, At-Large

CITY STAFF

Bo Thomas, City Manager

Michael W. Dixon, City Attorney

Miles Whitney, City Engineer

Lydia Lopez, City Secretary

Jim Devlin, Police Chief

Lee Garcia, Finance Director

Lance Bracco, Fire Chief

Waynette Ditto, Library Director

Katie Allgood, Managing Director

Tracy Lankford, Community Dev. Director

Tuck Saunders, Assistant Police Chief

Kevin Reinke, Utilities Director

HEWITT TEXAS

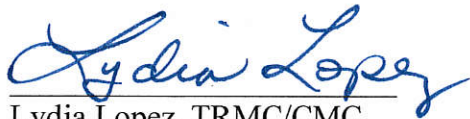
NOTICE OF MEETING OF THE GOVERNING BODY

Notice is hereby given that a **Workshop** meeting of the governing body of the City of Hewitt will be held on the **3rd day of June, 2019, at 6:30 PM in Hewitt City Hall, Council Chambers, 200 Patriot Court, Hewitt, Texas**, at which time the following subjects will be discussed:

1. Call meeting to order.
2. Briefing and discussion concerning status of Waco Metropolitan Area Regional Sanitary Sewer (WMARSS) System and Wholesale Wastewater Contract.
3. Briefing and discussion concerning Council priorities for FY 2019-2020 Budget.
4. Adjourn.

I, the undersigned authority, do hereby certify that the above notice of meeting of the governing body of the City of Hewitt, Texas was posted on the Public Notice Board located in front of City Hall at 11:30 AM/PM on May 29, 2019.

CITY OF HEWITT



Lydia Lopez, TRMC/CMC
City Secretary

In compliance with the American with Disabilities Act, the City of Hewitt will provide reasonable accommodations for persons attending and/or participating in this Council Meeting. To better serve you, request must be made at least 24 hours prior to the meeting. Contact the City Secretary at 254.666.6171 or by fax at 254.666.6014. The building is wheelchair accessible, with handicap parking available at the front of the building.

HEWITT TEXAS

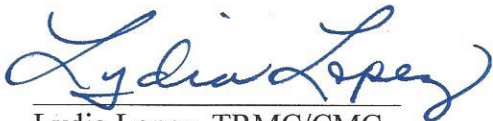
NOTICE OF MEETING OF THE GOVERNING BODY

Notice is hereby given that a **Regular** meeting of the governing body of the City of Hewitt will be held on the **3rd day of June, 2019, at 7:00 PM** in **Hewitt City Hall, Council Chambers, 200 Patriot Court**, Hewitt, Texas, at which time the following subjects will be discussed and upon which action may be taken:

1. Call meeting to order.
2. Pledge of Allegiance to the U.S. Flag
3. Consider approval of minutes of the Special Called Meeting of May 13, 2019 and Special Called Workshop of May 22, 2019.
4. Hear visitors on matters pertaining to city business. *Under the Texas Open Meetings Act, the Council is prohibited from discussing, responding, or acting on any comments or items that have not been properly posted on the agenda.*
5. Public hearing and action on **Ordinance No. 2019-07**; rezoning of a 5.251 acre tract of land, located at 1725 W. Spring Valley Rd., Hewitt, McLennan County, Texas, also known as Sprowles J Tract 1 from R-1 (Single-Family District) to C-2 (General Commercial District).
6. Consider reappointments to the Planning & Zoning Commission.
7. Consider the reappointment of Katie Allgood as Emergency Management Coordinator (EMC) and Tracy Lankford as Assistant Emergency Management Coordinator.
8. To ratify the emergency repair of the Crockett Lane Sewer Re-Route to Bear Contractors, Inc., in an amount of \$98,912.
9. Consider Resolution No. 2019-07; selecting an elected official of the City of Hewitt as the City's nominee for service as a member of the governing body of the McLennan County Rural Transit District.
10. Discussion concerning recommendation to Oncor Steering Committee of Cities regarding the denial of Oncor's Application for Approval of a Distribution Cost Recovery Factor.
11. Adjourn

I, the undersigned authority, do hereby certify that the above notice of meeting of the governing body of the City of Hewitt, Texas was posted on the Public Notice Board located in front of City Hall at 11:30 AM/PM on May 29, 2019.

CITY OF HEWITT



Lydia Lopez, TRMC/CMC
City Secretary



COUNCIL WORKSHOP AGENDA ITEM #2



CITY OF WACO

www.waco-texas.com

Water Utility Services

Post Office Box 2570

Waco, Texas 76702-2570

254/750-8040

Fax: 254/750-8032

October 19, 2017

City of Bellmead
Bo Thomas, City Manager
Bellmead, TX. 76705

Dear Bo,

Attached you will find information related to the upcoming WMARSS work session scheduled for October 25, 2017 from 10:00am to 1:00pm. The matrix provides information about the three options that have been proposed.

After reviewing all the options, discussing with bond and financial advisors, and multiple meetings by the Board, I have come to the realization that Waco purchasing WMARSS offers all Members the best solution.

- Contractually, capacity for the Cities would be fully protected.
- Member Cities would be made financially whole and the bonds retired.
- Waco would issue CO's for any bonding with Waco's bond rating. Bonds at a more favorable market rate – which benefits all Cities.
- Employees remain City of Waco employees. Staff has been very concerned about this.
- Containment of staffing cost. No need for additional accountants, engineers, legal, information technology, human resources, administrative support, lab analysis.
- All regulatory liability becomes Waco's.
- Payments for service would be an expense.
- Grants and low interest loans would be available to Waco that would benefit all the wholesale customers.
- Many regional systems are set up this way.
 - Ft Worth
 - Dallas
 - Austin
 - Weatherford
 - Tyler

I arrived at this conclusion after reviewing the challenges with continuing to govern WMARSS with an interlocal agreement and there are equally significant concerns with a Public Utility Agency (PUA).

The interlocal:

- Limits our ability to apply for and receive grants and low interest loans.
- Is difficult to manage seven cities and seven city councils.
- Concerns of Waco's compensation for managing the plant.
- If Waco bonds for all members, the members can treat their payments as an expense but Waco cannot.
- Attorney General would likely not allow Waco to bond for more than its ownership interest.

The PUA:

- Increases the cost of service.
- Increases the cost of bonding.
- Uncertainty of employees.
- Appointing board members who may not vote in a City's interest.
- Contract revenue bonds for small amounts garner little interest.

Over the course of the next ten years, I expect WMARRS capital improvements to meet or exceed \$100,000,000. Included in these improvements is the need for additional plant capacity at Bullhide, interceptor repair and replacements, lift station repair and replacements, improvements at Central Plant including modernization of several systems.

Any action forward would require the WMARSS Board to agree to contract for an analysis of each Member City's bonds and the terms associated with each bond. This will take time but is necessary for any course of action to continue to progress.

The partnership and relationships we formed many years ago has been very successful in managing WMARSS, but we have outgrown the current governance and it is time to seek a long term and reliable solution.

After reviewing the information, please let me know if you have any questions or concerns that can be addressed prior to or at this meeting.

Sincerely,



Lisa Tyer
Director of Water Utility Services
City of Waco

	Interlocal	PUA	Waco
Staff employed by	City of Waco Employees	Contract with City of Waco and transition to PUA employees. **Staff is very concerned about this uncertainty.	City of Waco Employees
Staffing	26 staff members	Number of Staff/cost would increase. -Director -Finance - Legal -Human Resources - Administrative Support -Operators -Lab staff -Information Technology	- 26 staff members -Or Outsource Operations
Director	Oversight by Water Utility Services Director	Hire an Executive Director	Oversight by Water Utility Services Director
Finance	City of Waco Finance Department	-Hire staff for financial matters -or outsource	City of Waco Finance Department

Legal	-City of Waco Legal Department -contractual attorneys	-Hire counsel -or contract with attorneys	-City of Waco Legal Department -contractual attorneys
Human Resources	City of Waco Human Resource Department	-Hire Human Resource Services and Payroll Services -or contract for those services	City of Waco Human Resource Department
Administrative Support	City of Waco Water Office - Billing -Cashiers - Call Center -Resource Management Group	-Hire additional staff or contract for administrative support -Set up Billing Services -Cash/Credit Card Services -Work Order Management	City of Waco Water Office - Billing -Cashiers - Call Center -Resource Management Group
Operators	20 Operators and Mechanics for both Wastewater Treatment Plants. Study recommends hiring a minimum of 6 additional staff members.	Likely to hire at least 6 staff members.	20 Operators and Mechanics for both Wastewater Treatment Plants. Study recommends hiring a minimum of 6 additional staff members.

Laboratory Services	-Lab analysis is done at Mt. Carmel Treatment Plant - contract at other labs.	- Hire lab staff and equipment -contract lab Services out	-Lab analysis is done at Mt. Carmel Treatment Plant - contract at other labs.
Information Technology	-IT services are performed by the City of Waco's IT Department - SCADA services are contracted out	-Hire IT staff -Contract out IT services -Contract out SCADA services	-IT services are performed by the City of Waco's IT Department - SCADA services are contracted out
Bonds	- Each City finances their portion - Consults with their bond counsel	-Revenue Bonds -Hire bond counsel -Higher rates and cost	- City of Waco COs -City of Waco's Bond Counsel -Waco responsible for all bonding with purchase
Grants/Low Interest Loans	-Each City has to apply -Time consuming and complicated applications -Each City bonding	May or may not qualify for all grants and loans	- One application -One bonding

Facility	Staff located at - Central & Bullhide Wastewater Treatment Plants -Riverside Water Treatment Plant -Water Office -Mt. Carmel Water Treatment Plant -City Hall	Would have to lease or build additional space for staff.	Staff located at - Central & Bullhide Wastewater Treatment Plants -Riverside Water Treatment Plant -Water Office -Mt. Carmel Water Treatment Plant -City Hall	
Expected Facility Improvements	Unknown			
	2018	\$ 7,306,000.00	2018	\$ 7,306,000.00
	2019	\$ 20,000,000.00	2019	\$ 20,000,000.00
	2020	\$ 5,000,000.00	2020	\$ 5,000,000.00
	2021	\$ 6,000,000.00	2021	\$ 6,000,000.00
	2022	\$ 16,500,000.00	2022	\$ 16,500,000.00
Regulatory	Each City has joint regulatory responsibility and liability.	PUA has the responsibility and liability.	City of Waco would have regulatory responsibility and liability.	
Plant expansion	Each City has the opportunity to purchase additional capacity but only those purchasing have to pay for the expansion.	PUA Board would determine when and if expansion occurred.	City of Waco - contractual agree to expansions in each service contract - finance the expansion -bill the respective customer(s) an infrastructure rate based on expansion -would be an expense for the customer	

Rates	Each City pays for O & M based off of the prior years flows.	PUA would determine the rates.	Each City would have the same volumetric rate but the capacity reservation rate and infrastructure rate would vary.
Governance	Each City has representation	Each City would appoint a board member who would serve out their term independent from the City	Advisory Board
Ownership Risk	Each City has -equity stake in the assets - a share of the liability -regulatory responsibility	The PUA would have an equity stake in the assets and liability. The City's, potentially, would have none.	City of Waco would own all -the assets - all the liability -all the regulatory responsibility



Board Resolution No. 2018-01

WACO METROPOLITAN AREA REGIONAL SEWER SYSTEM BOARD

WHEREAS, the Cities of Bellmead, Lacy Lakeview, Robinson, Waco, and Woodway executed an Interlocal Cooperative Agreement [Interlocal Agreement] for the purchase, financing, and operation of Waco Metropolitan Area Regional Sewerage System [WMARSS] in December 2003-January 2004; and

WHEREAS, the Brazos River Authority [BRA] executed the *Contract to Transfer the Waco Metropolitan Area Regional Sewer System* [Transfer Agreement] with the Cities of Bellmead, Lacy Lakeview, Robinson, Waco, and Woodway, dated January 20, 2004, to provide for the transfer of the assets comprising the Waco Metropolitan Area Regional Sewerage System by BRA to the cities; and

WHEREAS, the BRA executed the *Closing Agreement* [Closing Agreement] with the Cities of Bellmead, Lacy Lakeview, Robinson, Waco, and Woodway, dated February 24, 2004, which related to the consummation of the transfer of WMARSS to the Cities by BRA, and the *Conveyance of Undivided Interest*, transferring possession and control of the WMARSS to the cities, was effective February 26, 2004, with each of the cities acquiring an undivided interest in and to WMARSS;

WHEREAS, the Cities of Bellmead, Lacy Lakeview, Robinson, Waco, and Woodway executed an *Agreement for the Operation and Maintenance of WMARSS Facilities* [O&M Agreement] in March-April 2004, to designate Waco as the Operator of WMARSS and to establish certain duties and obligations of each city with regard to the operation and maintenance of WMARSS; and

WHEREAS, pursuant to a provision of the Interlocal Agreement, the City of Waco conveyed to the City of Hewitt an undivided 4.92% interest in WMARSS in May 2004, under which conveyance Hewitt agreed to abide by the terms of the Interlocal Agreement and the O&M Agreement; and

WHEREAS, prior to the transfer of WMARSS to the cities, BRA established for the WMARSS Pretreatment Program Local Limits specifying both numerical concentration limits and prohibited substances for discharge to WMARSS of toxic or regulated pollutants which may cause any pollutant to pass through the treatment works to the receiving waters or interfere with the operation of the treatment works or cause a violation of the BRA's State or Federal discharge permit provisions with allocations for loadings of industrial wastes based on the Industrial Contributory Flow (ICF); and

WHEREAS, in order to establish a single document with the BRA List of Inadmissible Wastes (which included the Technically Based Local Limits [TBLL]), the WMARSS Board approved a resolution in January 2006 that set out the requirements (which had been established by BRA) as the List of Inadmissible Wastes and TBLL for WMARSS; and

WHEREAS, in 2007 the City of Lorena acquired an equity interest in WMARSS to address compliance issues regarding the operation of its WWTP at a permitted site south of Lorena and to acquire additional wastewater treatment capacity and under the agreements providing for the acquisition of that interest, agreed to abide by the requirements of the List of Inadmissible Wastes and TBL for WMARSS; and

WHEREAS, under the 2004 O&M Agreement and in each subsequent O&M Agreement (the current one having been executed in 2013), each WMARSS City is required to comply with the standards of the Pretreatment Program and is only to discharge wastewater into WMARSS that complies with the limitations contained in the List of Inadmissible Wastes including the TBL; and

WHEREAS, since acquisition of WMARSS from BRA, the Central WWTP has been expanded and another treatment facility at a satellite plant near Bull Hide Creek along Cooksey Lane in McLennan County, Texas has been constructed; and

WHEREAS, under the 1994 BRA approved Pretreatment Program which used the Industrial Contributory Flow (ICF) method to allocate TBLs, cities with industrial customers made specific numeric allocations to its permitted industrial users (IUs); and

WHEREAS, since 1994, there have been changes in who the IUs are, the constituents of the wastewater discharged, the pretreatment technologies adopted to handle the wastes, and the technology used to sample the wastes, which have rendered the ICF method unreasonably punitive, onerous, and impractical to enforce due to the background concentration limits that were established in the 1990s; and

WHEREAS, to more equitably and fairly distribute the approved Maximum Allowable Industrial Loading (MAIL) to the current industrial customers, Waco, as the operator of WMARSS and manager of the Pretreatment Program, requested permission from TCEQ to modify the Pretreatment Program to use the Uniform Concentration Method (UCM) when allocating TBLs to its permitted IUs; and

WHEREAS, by Board Resolution 2014-01, WMARSS approved a List of Inadmissible Wastes and Technically Based Local Limits, which made use of the Uniform Concentration Method of allocation, to be the official list of Inadmissible Wastes and Technically Based Local Limits for WMARSS, contingent upon TCEQ approval of the List; and

WHEREAS, in June 2014, TCEQ approved said List of Inadmissible Wastes and Technically Based Local Limits, which made use of the Uniform Concentration Method of allocation, as the official list of Inadmissible Wastes and Technically Based Local Limits for WMARSS; and

WHEREAS, TCEQ has determined that the WMARSS TBLs pretreatment program package—dated August 4, 2017—to be technically complete, and TCEQ is in the process of opening and amending the WMARSS' Texas Pollutant Discharge Elimination System (TPDES) permits in order to approve the new TBLs,

THEREFORE, BE IT RESOLVED BY THE BOARD OF THE WACO METROPOLITAN AREA REGIONAL SEWERAGE SYSTEM:

That the recitals set forth above are true and correct.

That, contingent on receiving approval from TCEQ, the attached **List of Prohibited Discharges (formerly "List of Inadmissible Wastes") and Technically Based Local Limits**, which reflects new Technically Based Local Limits for both the WMARSS Central Wastewater Treatment Plant and Bull Hide Creek Wastewater Treatment Plant, shall be the official list of Prohibited Discharges and Technically Based Local Limits for WMARSS until such time as the Pretreatment Program and/or List of Prohibited Discharges or Technically Based Local Limits are revised or amended.

That the WMARSS Cities, as well as any city that becomes a customer of WMARSS, shall follow these standards and limit their discharges to WMARSS accordingly.

PASSED AND APPROVED the 30th day of May, 2018.



Wiley Stem III, Board Chair
City Manager, City of Waco, Texas

KFP
5/30/18

ATTEST BY OTHER BOARD MEMBERS/CITY REPRESENTATIVES



ATTEST

Patricia H. Craven
City Secretary

APPROVED AS TO FORM & LEGALITY:

[Signature]
City Attorney

THE CITY OF BELLMEAD

By: [Signature]

Everett "Bo" Thomas, City Manager

May 29, 2018
Date Signed

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ATTEST BY OTHER BOARD MEMBERS/CITY REPRESENTATIVES



THE CITY OF HEWITT

By: Adam Miles
Adam Miles, City Manager

ATTEST

Lydia Lopez
City Secretary

5-31-18
Date Signed

APPROVED AS TO FORM & LEGALITY:

[Signature]
City Attorney

[remainder of page intentionally left blank]

By: Keith Bond
Keith Bond, City Manager

Michael Hicks
City Secretary

05-31-18
Date Signed

City Attorney

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ATTEST BY OTHER BOARD MEMBERS/CITY REPRESENTATIVES



THE CITY OF LORENA

By:

Joseph Pace
Joseph Pace, City Manager

ATTEST

Monica Hendrix
City Secretary

May 29, 2018
(Date Signed)

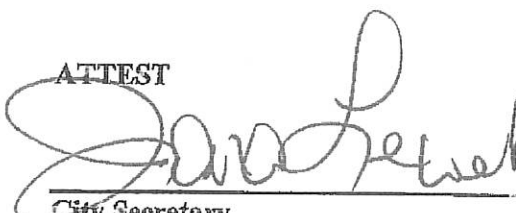
APPROVED AS TO FORM & LEGALITY:

City Attorney

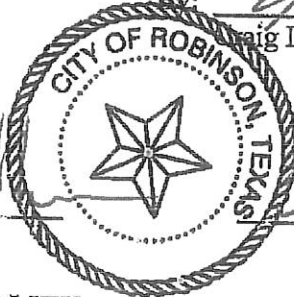
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ATTEST BY OTHER BOARD MEMBERS/CITY REPRESENTATIVES

THE CITY OF ROBINSON

ATTEST

City Secretary

By: 
Craig Lemin, City Manager

 5-31-2018
Date Signed

APPROVED AS TO FORM & LEGALITY:


City Attorney

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ATTEST BY OTHER BOARD MEMBERS/CITY REPRESENTATIVES

THE CITY OF WOODWAY

By: 

Print: Bob Howard

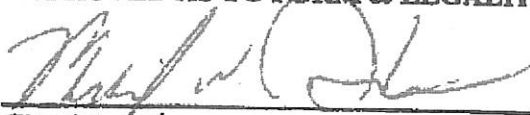
Title: Mayor

ATTEST


City Manager

5-31-2018
Date Signed

APPROVED AS TO FORM & LEGALITY:


City Attorney

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**LIST OF PROHIBITED DISCHARGES
and TECHNICALLY BASED LOCAL LIMITS
Published by WMARSS Board on May 24, 2018**

The Cities of Bellmead, Lacy Lakeview, Robinson, Waco and Woodway executed an Interlocal Cooperative Agreement [Interlocal Agreement] for the purchase, financing, and operation of Waco Metropolitan Area Regional Sewerage System (WMARSS) in December 2003-January 2004 and with the Brazos River Authority (BRA) executed a Contract to Transfer the Waco Metropolitan Area Regional Sewer System (Transfer Agreement) dated January 20, 2004, to provide for the transfer of the assets comprising the Waco Metropolitan Area Regional Sewerage System by BRA to the cities. The Closing Agreement dated as February 24, 2004, provide for the transfer to the cities by BRA of the WMARSS on February 26, 2004. Under the Interlocal Agreement, each of the cities owned an undivided interest in and to WMARSS following its acquisition under the Transfer Agreement and Closing Agreement.

The Cities of Bellmead, Lacy-Lakeview, Robinson, Waco, and Woodway executed an Agreement for the Operation and Maintenance of WMARSS Facilities [O&M Agreement] in March-April 2004, to designate Waco as the Operator of WMARSS and to establish certain duties and obligations of each city with regard to the operation and maintenance of WMARSS.

Pursuant to a provision of the Interlocal Agreement, the City of Waco conveyed to the City of Hewitt an undivided 4.92% interest in WMARSS in May 2004, under which conveyance Hewitt agreed to abide by the terms of the Interlocal Agreement and the 2004 O&M Agreement. With that conveyance, the WMARSS Cities became Bellmead, Hewitt, Lacy Lakeview, Robinson, Waco, and Woodway.

Under the 2004 O&M Agreement, the BRA Pretreatment Program, including the List of Inadmissible Wastes¹ (which included the Technically Based Local Limits), was adopted for use by the WMARSS Cities until such time as they revise or amend the program and List of Inadmissible Wastes. In order to establish a single document with the BRA List of Inadmissible Wastes (which including the Technically Based Local Limits), the WMARSS Board approved a resolution in January 2006 that setout the requirements (which had been established by BRA) as the List of Inadmissible Wastes and Technically Based Local Limits for WMARSS.

In 2007, the City of Lorena acquired an equity interest in WMARSS to address compliance issues regarding the operation of its WWTP at a permitted site south of Lorena and to acquire

¹ WMARSS' "List of Prohibited Discharges" was originally and formerly called the "List of Inadmissible Wastes." Throughout this document, the "List of Inadmissible Wastes" is used to refer to the list as it was originally written, and as it was originally used as part of the Pretreatment Program.

additional wastewater treatment capacity. Under the agreements providing for the acquisition of that interest, Lorena agreed to abide by the requirements of the List of Inadmissible Wastes and Technically Based Local Limits for WMARSS.

Under the 2004 O&M Agreement and in each subsequent O&M Agreement (the current one having been executed in 2013), each WMARSS City is required to comply with the standards of the Pretreatment Program and is only to discharge wastewater into WMARSS that complies with the limitations contained in the List of Inadmissible Wastes (which includes the Technically Based Local Limits).

The permit issued by the Texas Commission on Environmental Quality (TCEQ) under which WMARSS operates the Wastewater Treatment Plant (WWTP) required that WMARSS plan for additional treatment capacity when certain flow levels are reached. Consequently, the Cities of Bellmead, Hewitt, Lacy Lakeview, Lorena, Robinson, Waco, and Woodway were required to make and implement plans for the expansion of WMARSS treatment facilities. It was determined that meeting the treatment capacity needs of all the WMARSS Cities, including Lorena, could be best accomplished by expanding the original WMARSS Central Wastewater Treatment Plant and constructing another treatment facility at a satellite plant near Bull Hide Creek along Cooksey Lane in McLennan County, Texas.

Permits issued by TCEQ for the Central WWTP and the Bull Hide WWTP provided that a Technically Based Local Limits (TBLL) study would need to be done for the WWTPs once the construction and expansion was completed. That study was conducted in 2012 and the results submitted to TCEQ in 2013.

The 1994 approved BRA Pretreatment Program employed the Industrial Contributory Flow (ICF) method to allocate TBLLs and the cities with industrial users (IUs) issued permits with specific numerical limits. Since 1994, there have been changes in which users are the IUs, the constituents of the wastewater discharged, the pretreatment technologies adopted to handle the wastes, and the technology used to sample the wastes. Current pretreatment technologies and conservation efforts implemented by IUs have made the ICF method unreasonably punitive, onerous, and impractical to enforce due to the background concentration limits that were established in the 1990s. To more equitably and fairly distribute the approved Maximum Allowable Industrial Loading (MAIL) to the current industrial customers, Waco (as the operator of WMARSS and manager of the Pretreatment Program) requested permission from TCEQ to modify the Pretreatment Program to use the Uniform Concentration Method (UCM) when allocating TBLLs to its permitted IUs.

The UCM method requires all existing and future industries to meet the same discharge standards yet allows the industries to grow and expand without re-calculating limits or re-allocating pollutant loadings. Uniform Concentration Limits based on the UCM are calculated using the Maximum Allowable Industrial Loading (MAIL) and the total permitted industrial flow. It requires that the MAIL for each pollutant be divided by the total flow rate from all controlled dischargers. The 2018 approved MAIL for each pollutant is shown in the table below along with the Uniform Concentration Limit.

The WMARSS Board hereby publishes the standards set out below as the List of Prohibited Discharges and the Technically Based Local Limits (UCM calculation) for WMARSS. Discharges in violation of these limits will be a violation of the WMARSS discharge standards.

Monitoring for these pollutants shall be conducted as required by TCEQ permit at the Headworks of the treatment facility. If any pollutant approaches or exceeds the WMARSS Headworks Limits, investigative sampling will be conducted to determine the source.

The WMARSS Cities, as well as any city that becomes a customer of WMARSS, shall follow these standards and limit their discharges to WMARSS accordingly.

A. Prohibited Discharges

1. Wastewater having a temperature that would result in the total combined influent to the treatment plant to exceed a temperature of 104 degrees Fahrenheit.
2. Wastewater having a pH value lower than 5.5 or higher than 10.5.
3. Wastewater containing gasoline, benzene, naptha, fuel oil, or other flammable or explosive liquid, solid or gas.
4. Wastewater with a radioactive content greater than allowable by applicable provisions of the Texas Radiation Control Act, Article 4590 (f), Revised Civil Statutes of Texas, and the Texas Regulations for Control of Radiation issued thereunder.
5. Wastewater, which alone or in conjunction with other wastewater, cause the wastewater entering the any entry point into the WMARSS system to exceed a hydrogen sulfide concentration greater than 1.0 milligram per liter.
6. Wastewater that will alone or in conjunction with other wastewaters cause the treatment plant influent (Headworks) to contain a toxic phenol concentration greater than 1.428 milligrams per liter.

B. Technically Based Local Limits

The combined volume of all industrial wastewaters discharged by industrial discharges in the WMARSS Cities shall not contain the listed pollutants in excess of the loadings listed below without prior written approval from the WMARSS Control Authority. WMARSS will monitor for those pollutants as prescribed in this document. Should the analysis indicate any of the pollutants listed are approaching or exceeding the WMARSS Headworks Limits, the WMARSS City from which the pollutant is discharged shall determine the source of the pollutants and require the generator to reduce or cease discharge of the pollutant and/or commence monitoring of the pollutant as required in the WMARSS Pretreatment Program. The following pollutant limits are established to

protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of the following:

Parameter	WMARSS WWTP		Bull Hide Creek WWTP	
	Maximum Allowable Industrial Loading (MAIL) (lbs/day)	Uniform Concentration Limit [TBLL] (mg/L)	Maximum Allowable Industrial Loading (MAIL) (lbs/day)	Uniform Concentration Limit [TBLL] (mg/L)
Arsenic	0.71	0.03	0.0665	0.14
Cadmium	1.50	0.07	0.0268	0.06
Chromium	47.39	2.06	1.2553	2.69
Chrome (VI)	9.45	0.41	0.3836	0.82
Copper	17.51	0.76	0.4569	0.98
Cyanide	13.063	0.57	0.2236	0.48
Lead	8.25	0.36	0.2479	0.53
Mercury	0.09340	0.004	0.0118	0.03
Molybdenum	28.10	1.22	0.1194	0.26
Nickel	13.93	0.60	0.8592	1.84
Selenium	1.78	0.08	0.0517	0.11
Silver	10.92	0.47	0.5687	1.22
Zinc	43.62	1.89	1.0867	2.33

Industrial wastewaters as defined in the WMARSS Pretreatment Program shall not be discharged without prior written approval of the city in whose jurisdiction the generator is located. The WMARSS Operator will monitor for those pollutants as prescribed in this document. Should the analysis indicate any of the pollutants listed are approaching or exceeding the WMARSS Headworks Limits, the city from which the pollutant is discharged shall determine the source of the pollutants and require the generator to reduce or cease discharge of the pollutant and/or commence monitoring of the pollutant as required in the WMARSS Pretreatment Program. Should any city have a need to provide Sewerage Service to such an industry, the city will provide the WMARSS Manager at least 90 days advance notice so the required permit can be issued..

C. Surcharges

Industrial wastewater which, alone or in conjunction with other wastewaters, causes the wastewater entering any entry point into the System to exceed a five day Biochemical Oxygen Demand (BOD) concentration of 240 milligrams per liter, a Total Suspended

Solids (TSS) concentration of 307 milligrams per liter, or a Total Kjeldahl Nitrogen of 35 milligrams per liter shall be subject to surcharging.

D. Other

Discharges must comply with the requirements of the Resource Conservation and Recovery Act Requirements as adopted by the State of Texas.

WHOLESALE WASTEWATER CONTRACT

This Wholesale Wastewater Contract (the "Contract") is made and entered into this, the _____ day of _____, 2019, (the "Closing Date") by and between the City of Waco, Texas, a Texas home-rule municipality ("Waco" or "Owner"), and the _____, a _____, ("Customer"), with the terms to go into effect on the 1st day of October, 2019 (the "Effective Date").

Commented [KP1]: New language

WHEREAS, Customer has transferred its ownership interest in Waco Metropolitan Regional Sewer System ("WMARSS") facilities to Waco under separate agreement to simplify operations and maintenance administration, reduce regulatory liability, and capitalize on efficiencies available with centralized ownership of the WMARSS facilities; and,

WHEREAS, Waco and Customer desire to enter into a wholesale contractual relationship for purposes of Waco providing wastewater treatment service to Customer;

Waco and Customer, in consideration of the terms, covenants and conditions herein contained, hereby agree as follows:

1. Definitions

In addition to terms otherwise defined herein, when used in this Contract, the following terms, when capitalized, shall be defined as follows.

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- 1.1 **Administrative Cost or Indirect Cost** – The costs to provide services to Waco Wastewater Treatment and Regional Collection Facilities by various City of Waco Departments, including, but not limited to, Water/Wastewater Utilities, Legal, and Engineering. The amount will be established and approved as part of the City's annual budget process in accordance with the Full Cost Allocation Plan.
- 1.2 **Act or "the Act"** - The Federal Water Pollution Control Act, also known as the Clean Water Act ("CWA"), as amended (33 U.S.C. 1251, et seq.).
- 1.3 **Approved Connection Points** - the Points of Entry identified in Exhibit "C", as it may be amended from time to time by the mutual agreement of the parties In Writing.
- 1.4 **Biochemical Oxygen Demand (BOD)** - The quantity of oxygen by weight, expressed in milligrams per liter (mg/l) utilized in the biochemical oxidation

of organic matter under standard conditions for five days at a temperature of 20 degrees Celsius.

- 1.5 **Calibration** - Field verification of metering station flow measurement accuracy utilizing flow meter calibration and field measured velocity profile data.
- 1.6 **Capital Improvement Expenses** – Means all acquisition, construction, reconstruction, rehabilitation, replacement and decommissioning costs as those terms are generally understood in standard accounting practice as applied to projects of the nature of the Waco Wastewater Treatment and Regional Collection Facilities determined by Waco to be capital improvements. The term shall include, but is not limited to the cost of [Required Improvements;] the costs of obtaining all licenses and permits; costs of purchasing any equipment, property, rights in property, land, easements, and rights of way, including damages to land and property; engineering, inspections, administrative, auditing, legal expenses incurred in connection with planning, development, acquisition, construction, reconstruction or decommissioning of Waco Wastewater Treatment and Regional Collection Facilities; the cost of tools and equipment required for the operation and maintenance of Waco Wastewater Treatment and Regional Collection Facilities; costs of the same nature for any expansion, extension, enlargement, improvement, rehabilitation or replacement of Waco Wastewater Treatment and Regional Collection Facilities; legal and other expenses incurred in accomplishing the acquisition or construction of Waco Wastewater Treatment and Regional Collection Facilities. The term does not include Operation and Maintenance Expenses.
- 1.7 **Categorical Pretreatment Standards** – The standards outlined in 40 CFR 403 and 40 CFR chapter I, subchapter N.
- 1.8 **Composite Sample** - The sample resulting from the combination of individual Wastewater samples taken at selected intervals based on an increment of either flow or time.
- 1.9 **Customer System or Customer's System** - The facilities of Customer used for Pretreatment, collection or transportation of Wastewater to the Point of Entry.
- 1.10 **Debt Service Requirements** – Includes, without limitation, (i) the principal of, premium, if any, and interest when due on Waco Debt Obligations,

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(ii) any payments required by the ordinance or other authorizing document for a Waco Debt Obligation to be paid into a debt service fund, debt service reserve fund or other contingency fund, (iii) the costs of any insurance for Waco Debt Obligations, (iv) amounts payable under any credit agreements relating to Waco Debt Obligations, and (v) any trustee or paying agent fees and expenses, and any other costs and expenses relating to the issuance, maintenance, and payment of Waco Debt Obligations.

1.11 **Director** - the City of Waco's Director of Utility Services or his/her designee.

Commented [KP2]: New language

1.12 **Domestic Accounts** - Those accounts under which Wastewater is being discharged that does not exceed the quality parameters outlined in Exhibit "B".

1.13 **Fiscal Year** - The twelve (12) month period beginning October 1 of each year.

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1.14 **Full Cost Allocation Plan** - The Indirect Cost Study prepared by Waco (either internally or by contracted consultant) and used to calculate Indirect Costs attributable to City of Waco Departments, as may be amended and updated from time to time.

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1.15 **In Writing** - means a written document signed by both parties to this Contract.

1.16 **Indirect Discharge** - The introduction of pollutants into the Publicly Owned Treatment Works from any nondomestic source regulated under section 307(b), (c), or (d) of the Act.

1.17 **Industrial User** - Any person or entity directly or indirectly discharging or causing the discharge of wastewater that includes industrial waste into the Internal Collection Facilities of a Customer that is then discharged into Waco facilities.

1.18 **Industrial Wastes** - Waste resulting from any process of industry, manufacturing, trade or business from the development of any natural resource, any mixture of waste with water or normal wastewater, or distinct from normal wastewater.

- 1.19 Infiltration** - Water that has migrated from the ground into a wastewater system.
- 1.20 Inflow** - Water other than sewage that enters a wastewater system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary catch basins, cooling towers, storm waters, surface runoff, street wash waters or drainage. Inflow does not include, and is distinguished from, Infiltration water.
- 1.21 Internal Collection Facilities** – The facilities utilized by each Customer to transport and deliver wastewater to Waco Wastewater Treatment and Regional Collection Facilities at a Point of Entry. Each Customer shall be responsible for the management, operation, and maintenance of its Internal Collection Facilities up to a Point of Entry.
- 1.22 Liquid Waste** - The water-borne solids, liquids, and gaseous substances derived from certain sources including, but not limited to, grease traps, septic tanks, chemical toilet waste, and sand trap waste.
- 1.23 Metering and Sampling Facility** - The meter station and all metering and telemetry equipment required to accurately measure or sample Wastewater flows of the Customer at the Point of Entry or other such locations as may be mutually agreed upon In Writing.
- 1.24 Non-domestic Account** - Those accounts under which wastewater is being discharged that exceeds the quality parameters outlined in Exhibit B.
- 1.25 Operations and Maintenance Expense** – All direct and indirect costs of operation, maintenance, repair, rehabilitation, replacement, and decommissioning of Waco Wastewater Treatment and Regional Collection Facilities determined by Waco to be operation and maintenance expenses, whether arising before or after the Effective Date, excluding depreciation and Capital Improvement Expenses, and includes but is not limited to:
- (a) Costs of maintaining any permits or licenses necessary to own, operate, and maintain Waco Wastewater Treatment and Regional Collection Facilities;

- (b) Costs of labor, materials, utilities, supervision, engineering, accounting, auditing, legal and professional services, insurance, personnel, data processing, and purchasing;
- (c) Costs of those routine or repetitive activities or recommended by the equipment or facility manufacturer or by Waco to maximize the service life of the equipment, sewer, vehicles, and facility (maintenance);
- (d) Costs of nonroutine/nonrepetitive activities required for operational continuity, safety, and performance generally resulting from failure or damage to, or to avert a failure or damage to, equipment, sewer, vehicle, or facility or some component thereof (repairs);
- (e) Cost of any other tools, supplies, inventory, services, and equipment, together with Administrative Costs or Indirect Costs not otherwise included in this definition, necessary for the proper operation and maintenance of Waco Wastewater Treatment and Regional Collection Facilities;
- (f) Any and all expenses incurred in connection with any litigation or administrative proceedings of any nature whatsoever concerning Waco Wastewater Treatment and Regional Collection Facilities to any person, entity, or party;
- (g) Payments made in satisfaction of judgments resulting from settlement of claims not covered by insurance maintained by Waco arising in connection with the ownership, operation, or maintenance of the Waco Wastewater Treatment and Regional Collection Facilities;
- (h) Costs for Waco Wastewater Treatment and Regional Collection Facilities construction projects that have not begun as of the Closing Date, but will become part of the "Capital Rate" determination upon the Effective Date; and,
- (i) All costs and expenses of all liabilities or claims made against Waco or Customer, whether known or unknown as of the Closing Date, and those which may arise or become known after the Effective Date.

Commented [KP3]: Edit presented at Mar 25 mtg

- 1.26 **Point of Entry** - Any points at which the Customer's wastewater enters the Waco System, by whatever means, whether metered or unmetered.
- 1.27 **Pretreatment** – Shall be defined as set out in 40 CFR Part 403.
- 1.28 **Pretreatment Requirements** - Any substantive or procedural requirement related to Pretreatment imposed on an Industrial User, other than a Pretreatment Standard.
- 1.29 **Pretreatment Standard or Standards** - Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.
- 1.30 **Publicly Owned Treatment Works (POTW)** –A treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the State or a municipality. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or Industrial Wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the Industrial Users and responsibility for the operation and maintenance of the treatment works.
- 1.31 **Significant Industrial User (“SIU”)** – Users of the Waco Wastewater Treatment and Regional Collection Facilities that are in the following categories: (1) All Industrial Users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N, and (2) Any other Industrial User that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW Treatment plant; or is designated as such by the Control Authority on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement (in accordance with 40 CFR 403.8(f)(6)).
- 1.32 **Standard Methods** - Those testing or analysis procedures as prescribed in the then current edition of "Standard Methods for Examination of Water and Wastewater," published by the American Public Health Association or the U.S. Environmental Protection Agency Manual of Methodologies for the Examination of Water and Wastewaters, or as will otherwise comply with procedures specified in state and federal discharge permits held by Waco.

Commented [KP4]: Post-March 25th meeting, tweaked for clarification

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- 1.33 **Strength** - The concentration of dissolved and suspended matter in sewage, as indicated by Biochemical Oxygen Demand, Suspended Solids, Total Kjeldahl Nitrogen, or Total Phosphorus.

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- 1.34 **Suspended Solids** – The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- 1.35 **Waco Debt Obligations** – Bonds, notes or other obligations or agreements issued or entered into by Waco, including any bonds, notes or other obligations or agreements issued to refund or refinance the foregoing.
- 1.36 **Unauthorized Discharge** – Any discharge of wastewater into or adjacent to waters in the state at any location not permitted.
- 1.37 **Waco Expense** - Expenses incurred by Waco related to the Waco Wastewater Treatment and Regional Collection Facilities
- 1.38 **Waco System or Waco's System** - Waco's wastewater collection and treatment system, which is a Publicly Owned Treatment Works under Section 307 of the Act. For purposes of this Contract, the Waco System includes all wastewater treatment plants.
- 1.39 **Waco Wastewater Treatment and Regional Collection Facilities** – Includes all facilities previously known as the Waco Metropolitan Area Regional Sewerage System (“WMARSS”), and any future improvements or expansions thereto, as well as any new facilities constructed to treat and transmit wastewater.
- 1.40 **Wastewater** - Liquid and water-carried Industrial Wastes, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the Publicly Owned Treatment Works.
- 1.41 **2018 WMARSS O&M Interlocal Agreement** - the Waco Metropolitan Area Regional Sewer System (“WMARSS”): 2018 Agreement for Operation & Management of Facilities by and between Bellmead, Hewitt, Lacy-Lakeview, Robinson, Waco, Woodway, and Lorena executed by each of the Cities between February 6, 2018, and June 13, 2018

1.42 WMARSS Assets means all of the assets that Waco operates as part of the WMARSS under and pursuant to any WMARSS Interlocal Agreement with the Cities, and any additions and improvements thereto and all real, intellectual, and personal property, easements and associated infrastructure, which the WMARSS Assets shall include, without limitation, the following:

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Same definition as in the Transfer Document

- (a) The real property owned by any Conveying City or Waco (including without limitation, all real property owned by Waco for the benefit of WMARSS) and described in Exhibit F attached to this Contract (the "WMARSS Owned Real Property"), which WMARSS Owned Real Property shall include, without limitation, the Original Plant, the WMARSS After-Acquired Assets constituting real property or fixtures, the WMARSS Facilities, all estates, rights, titles and interests of the Conveying Cities in and to all tenements, hereditaments, easements, rights-of-way, rights, licenses, permits (including building, occupancy, environmental and operating permits), rights of ingress and egress, reversionary interests, privileges and appurtenances relating to the WMARSS Owned Real Property and owned by a Conveying City (or the Conveying Cities) or belonging, pertaining or relating to the WMARSS Owned Real Property, any and all rights to present or future use of utility facilities relating to the WMARSS Owned Real Property, and the entire right, title and interest of a Conveying City, if any, in, to and under all streets, alleys, passages, strips, gores, pipes, pipelines, meters, metering stations, vaults, manholes, sewers, sewer rights, ditches, water, water courses, water rights and powers, air rights, railroad sidings, minerals, mineral rights and mineral interests, upon, above, in, under or pertaining to the WMARSS Owned Real Property, and all options and rights to purchase or otherwise acquire real property to the extent associated with the WMARSS, together with all right, title and interest, if any, in and to real property, which, or in which it is later determined or discovered, to have been used in connection with WMARSS;
- (b) All estates, rights, titles and interests of a Conveying City (or the Conveying Cities) in and to all plants, storage facilities, buildings, structures, works, fixtures (including, without limitation, all apparatus, buildings, appliances, machinery, equipment and other articles of a permanent nature), construction in progress, improvements, betterments, installations, and additions constructed, erected or located on or attached or affixed to the WMARSS Owned Real Property;
- (c) The real property leases in effect, if any, as described in Exhibit [redacted] to this Contract (the "WMARSS Leased Real Property"); [NEED TO ADD A REFERENCE TO THE BULL-HIDE FARM LEASE.]

- (d) All of each of the Conveying Cities' interest in (or, to the extent owned by a third person and held by the Conveying Cities pursuant to lease, the Conveying Cities' leasehold interest in) the tangible personal property, fixtures, furniture, furnishings, office equipment, computers, computer programs, computer software, laboratory equipment, chemicals, vehicles, supplies, telephones, radios, machinery, tools and equipment used in connection with the WMARSS Assets, together with all right, title and interest, if any, in and to personal property, and all other interests, whether direct, indirect or equitable, which, or in which it is later determined or discovered, to have been related to or used in connection with WMARSS (the "Personal Property"), including, without limitation, the WMARSS After-Acquired Assets constituting Personal Property, and the WMARSS Equipment.
- (e) The contracts, commitments, agreements, leases, licenses and arrangements relating to the WMARSS to which a Conveying City is a party, if any (the "Assumed Contracts");
- (f) To the extent relating primarily to the WMARSS, all of the (together referred to hereinafter as the "Files and Records"):
 - (i) Land files, contract files, surveys, maps, plats, correspondence and other documents and instruments evidencing title to or interest in the WMARSS Assets;
 - (ii) Accounting and financial records;
 - (iii) Engineering design plans, operation and maintenance manuals, plans, and records;
 - (iv) Employee records;
 - (v) Construction records, sub-contractor records, vendor records, manufacturer records, and maintenance records;
 - (vi) Other books, records and files; and
 - (vii) Plans, data, research records, customer and supplier lists and similar data and information;
- (g) All permits, registrations, licenses, authorizations, approvals, consents, franchises, and the like issued to or for the benefit of Waco or the Conveying Cities by any federal, state or local governmental entity that are required to operate the WMARSS (the "Permits"), including, without limitation, any and all Permits from the Texas Commission on Environmental Quality or

any of its predecessors (collectively, "TCEQ") necessary for the operation of the System, including without limitation TCEQ Permit WQ 11071-001, NPDES Permit No. TX 0026506, and TCEQ Air Permit No. 22237 (the "TCEQ Permit," whether one or more).

- (h) The originals of all copyrighted material, patents, trademarks and intellectual property of any kind developed for WMARSS or paid for in whole or in part by the Conveying Cities through payments to Waco, including, without limitation, intellectual property;
- (i) All warranties, guaranties, and the like covering any of the WMARSS Assets (the "Warranties");
- (j) All rights of any of the Conveying Cities to the accounts and notes receivable and cash payments for services and products, whether arising by sale, lease or otherwise, arising with respect to the WMARSS;
- (k) All goodwill relating to or arising primarily from the WMARSS.

2. Connection to the Waco System

2.1 Waco hereby grants to Customer, upon compliance with the terms and conditions contained herein, permission to connect Customer's System to the Waco System for the term of this Contract provided that Customer is not in material breach of any provision of this Contract. If the Effective Date is not the same date as the Closing Date, then the 2018 WMARSS O&M Interlocal Agreement will remain in effect until the Effective Date of this Contract.

2.2 Waco commits to provide Customer with capacity in the Waco Wastewater Treatment and Regional Collection Facilities; initial reservations for access to capacities are listed in Exhibit "A." Access to a specific amount of capacity is reserved for Customer at the Central Wastewater Treatment Plant ("Central Plant"), and access to a separate specific amount of capacity is reserved for Customer at Bull Hide Wastewater Treatment Plant ("Bull Hide Plant"). (Together, the Central Plant and Bull Hide Plant may be referred to as the "Plants"; separately, each may be referred to as "Plant.") This commitment shall continue until such time as Customer stops conveying Wastewater to the Waco Wastewater Treatment Plant and Regional Collection Facilities pursuant to this Contract. Leases, or other forms of agreements, to allow a Customer to use capacity from another Customer, will not be allowed.

2.3 Waco agrees to accept all "admissible waste," as defined in Exhibit "B",

delivered by Customer in accordance with this Contract at the Point(s) of Entry designated on Exhibit "C", attached hereto and incorporated herein, and at such additional points as may later be mutually agreed upon by the parties In Writing.

2.4 The cost of all delivery facilities necessary to convey wastewater to Approved Connection Points, whether shown on Exhibit "C" or mutually agreed upon at a later date by the parties, together with the cost of connection of the Customer System to the Waco System, shall be borne by Customer. In the event Waco requests Customer to increase the size of any such delivery facility, the difference in the cost of the delivery facilities that would be necessary to convey Wastewater to the designated Points of Entry, and the cost of the delivery facilities as requested by Waco, shall be at Waco's expense.

2.5 Unless mutually agreed to In Writing by Waco and Customer, Customer shall be responsible for all costs for the design, contracting, construction, and financing of Customer's System, including all facilities necessary to deliver Wastewater to the Point(s) of Entry ("Delivery Facilities") and the cost and acquisition of any necessary rights-of-way and easements to and from such facilities. All designs, materials, and specifications shall, at a minimum, conform to Waco's requirements. Plans and specifications for any Delivery Facilities which physically connects to the Waco System shall be submitted to the Director for written approval. Such approval shall not be unreasonably withheld. No construction shall begin until such approval has been given. Customer agrees that Waco has the right to make periodic inspections during the construction phase of the Delivery Facilities. Final acceptance of such Delivery Facilities is subject to the inspection and written approval of the Director.

2.6 After the date of this Contract, Customer agrees to provide 90 (ninety) days written notice to Waco of its intent to provide service to any new single user or new development whose need for wastewater service would exceed 100,000 gallons per day.

3. Maintenance of Customer System

3.1 Customer agrees to maintain Customer's System in good condition and to make repairs in a timely manner. Waco shall not have any responsibility or _____ liability for the operation of the Customer's System, it being Customer's sole responsibility to provide adequate facilities to deliver its wastewater to the Waco System.

4. Treatment Capacity Expansion

4.1 TPDES Permit No. 11071-001 issued for the Waco Wastewater Treatment and Regional Collection Facilities states that whenever the flow measurements for the facility reach 75% of the permitted daily average or annual average flow for three

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Section 4 discussed at March 25th meeting;

Post-March 25th meeting, Sections 4.2 tweaked; new paragraph added (placed at 4.3)

These changes are separate from the "New language" marked at Section 4.2

consecutive months, the permittee must initiate engineering and financial planning for expansion and/or upgrade of the domestic wastewater treatment and/or collection facilities and whenever the flow reaches 90% of the permitted daily average or annual average flow for three consecutive months, the permittee shall obtain necessary authorization from TCEQ to commence construction of the necessary additional treatment and/or collection facilities. This 75%/90% Rule (the "Rule") is not triggered by an individual Customer using 75% or 90% of its own specific capacity in one of the Plants, instead the Rule is triggered by the overall flows into a given Plant.

Acquiring additional capacity requires the expansion of existing facilities and/or the construction of new facilities, including but not limited to, treatment facilities (or satellite treatment plants) and associated lift stations and interceptors as well as storage facilities for peak flows that alleviate the need for treatment facilities. Costs to acquire these facilities include the design and engineering services and land acquisition, construction costs, and (often) the services of a program manager. This expansion and/or construction does not include the expansion or construction of Customer's Internal Collection Facilities.

Any time that Customer's expansion of internal collection facilities will result in increased intake at any Waco Wastewater Treatment and Regional Collection Facilities, Customer must provide notice of its system change to Waco to ensure that increased intake will not damage the affected Waco Wastewater Treatment and Regional Collection Facilities. Said notification must include an engineering study on the effects to the Waco Wastewater Treatment and Regional Collection Facilities.

4.2 Waco shall notify Customer when Customer's average daily flows into a Plant reach or exceed 75% of Customer's capacity reserved in said Plant, in order to serve notice to said Customer that they are near capacity at said Plant. Waco shall also notify Customer when customer average daily flows in three consecutive months reach or exceed 90% of customer's capacity reserved in a Plant. If Customer has capacity in both Plants, Customer may propose to Waco that Customer's flows be adjusted between the two Plants, as long as Customer's flows stay within Customer's applicable contracted capacity in each Plant. If Waco approves of the Customer's proposal, Waco and Customer will work together to adjust Customer's flows into each Plant.

Commented [KP8]: New language

Upon notice to Customer that they are at 90% of their then current capacity in a Plant, Customer will be required to request expanded capacity, which at a minimum, provides sufficient capacity in total (original capacity plus expanded capacity) so that existing flows are below the 75% threshold. Requested capacity, and payment for the requested capacity, will be effective in the subsequent rate year.

If Customer is at or above 90% of its current capacity in a given Plant, but the total capacity of said Plant is not above the 75% threshold and therefore not requiring an immediate expansion, Customer shall be billed an "Interim Capacity Rate" for the

~~additional capacity requested above which will be charged for the requested capacity expansion on a per MGD basis and will be calculated on an annual basis payable in 12 equal monthly payments. The Interim Capacity Expansion Rate will be based upon Waco's engineer's opinion of the then probable cost for the next estimated capacity expansion to the System and shall be determined on an annual basis. Upon completion of the applicable Plant's expansion, Customer's Interim Capacity Expansion Rate shall expire and be replaced with the Capacity Expansion Rate outlined in Section 8.1 of this Contract.~~

4.3 If Customer flows, at any time, exceed its current capacity in a given Plant, but the total capacity of said Plant is not at or above the threshold requiring an immediate expansion, Customer shall be billed an "Interim Capacity Rate" for the additional excess capacity above its reserved capacity. The charge for excess capacity will be on a per MGD basis and charged for the billing period in which the excess capacity is used. Upon completion of the applicable Plant's expansion, Customer's Interim Capacity Expansion Rate shall expire and be replaced with the Capacity Expansion Rate outlined in Section 8.1 of this Contract.

4.4 At such time as additional capacity is needed as outlined in section 4.2 of this Contract, Waco will calculate the total amount of expansion necessary and the total cost for each Customer that has capacity in the affected Plant. Customer will decide how much additional capacity it desires and inform Waco of its desired capacity in the expansion, so long as said capacity requested is equal to or greater than that calculated by Waco and sufficient to bring Customer below the 75% threshold. Customer's purchase of additional capacity will be charged to the Customer via the Capacity Expansion Rate as outlined in Section 7.1 of this Contract.

If a Customer elects not to participate in an expansion of a Plant and is not required to obtain additional capacity by applying the 75% / 90% standard as applied to that Customer's capacity in the applicable Plant (calculated by Customer's daily average and annual average flows for three consecutive months), then:

- (1) Customer will not be required to share in acquisition and construction costs associated with the expansion and will not be charged a Capacity Expansion Rate; and
- (2) Customer's capacity shall remain at the capacity, stated in MGD, it had access to prior to the expansion; and
- (3) Consequently, Customer's overall percentage of reserved capacity in Waco Wastewater Treatment and Regional Collection Facilities will be reduced following the expansion.

5. Metering and Sampling Facilities

5.1 On the Effective Date of this Contract, Customer shall transfer ownership of all existing Metering and Sampling Facilities to Waco, and Waco shall have the exclusive right to enter, use, operate, and maintain Metering and Sampling Facilities and Waco shall become solely responsible for the operational and maintenance responsibilities associated with these facilities. Should additional Points of Entry be added by Customer thereafter to deliver Customer's wastewater to the Waco System, Customer shall construct Metering and Sampling Facilities for each such Point of Entry that are designed and engineered in a manner satisfactory to Waco, and shall transfer ownership of such newly constructed facilities at no cost to Waco, together with all necessary access easements and rights-of-way to Waco in a form satisfactory to Waco, together with the authority to operate and maintain the facilities as specified in Section 5.3. Customer will always provide Waco a route of ingress and egress to Metering and Sampling Facilities, which shall be accessible to Waco without notice. Waco shall have the discretion to construct improvements, expansions, and replacements to these facilities at the timing of Waco's needs, provided, however, that Waco shall permit Customer to review proposed construction, expansion, and replacement plans. Customer will grant and provide to Waco such permits or easements as are necessary for the continuous operation and maintenance of all Metering and Sampling Facilities. All such costs incurred by Waco for operation, maintenance, construction, expansion, and replacement of Metering and Sampling Facilities shall be considered Operations and Maintenance Expenses associated with the Waco Wastewater Treatment and Regional Collection Facilities.

5.2 Unless otherwise agreed to by both parties In Writing, Waco shall have the option to construct Customer Metering and Sampling Facilities not currently in existence. All construction costs, including, but not limited to, site acquisition and preparation, design and engineering, construction and equipment for such facilities, together with the costs of necessary easements and rights-of-way, shall be costs paid by the Customer, including any and all necessary modifications to accommodate a complete initial installation satisfactory to Waco. If Customer constructs new Metering and Sampling Facilities, Customer shall transfer ownership of the newly constructed facilities, together with all necessary access easements and rights-of-way to said Facilities and the authority to operate and maintain said Facilities as specified in Section 5.3, to Waco at no cost to Waco and in a form satisfactory to Waco. Thereafter, Waco shall operate and maintain the Facilities as an Operations and Maintenance Expense associated with the Waco Wastewater Treatment and Regional Collection Facilities.

5.3 Expenses incurred by Waco for the operation and maintenance of Metering and Sampling Facilities shall be Operations and Maintenance Expense associated with the Waco Wastewater Treatment and Regional Collection Facilities and shall include, without limitation, the following:

- (a) Cost of electricity and batteries at the facility;
- (b) Cost of the initial installation of the telemetry service at the facility and to the control center and cost of monthly lease charge for connectivity;
- (c) Cost of calibration and field measured Velocity Profiles;
- (d) Cost of parts, materials and supplies required for repairs, calibrations and upgrading of the facilities;
- (e) Labor cost plus fringe benefits and indirect costs for repairs, calibrations and upgrading of the facilities;
- (f) Maintenance costs of ingress and egress and meter facility site; and,
- (g) Administrative Costs and Indirect Costs, including but not limited to record and book keeping, cost of service studies and costs associated with ratemaking.

5.4 Replacement of facilities described in this section or equipment therein occasioned as a result of obsolescence due to age, excessive maintenance, growth or other reasons as determined by the Director shall be considered an Operations and Maintenance Expense. Any replacement facility or equipment therein shall comply with Waco's standards and specifications.

6. Rights-of-Way

6.1 Customer shall grant, without charge to Waco, such easements and rights-of-way along public highways or other property owned by Customer, to the extent lawful and as reasonably necessary, to construct or maintain mains or facilities within the corporate limits of Customer to provide wastewater collection to Customer and to other areas; provided, however, that nothing herein shall impose upon Customer an obligation to acquire title or easement rights with regard to any property. Whenever by reason of reconstruction, widening or straightening of streets, replacement of water or sewer lines, traffic signals, traffic signs and markings or any other public works project it shall be deemed necessary by Customer to remove, alter change, adapt, or conform the underground or overhead facilities of Waco located in rights-of-way or other property owned by Customer, such alterations shall be made by Waco at Waco's expense within thirty days from the issuance of written notice to Waco to make the alterations unless a different schedule has been approved by Customer. All work done by or on behalf of Waco under this Section of the Contract will be performed in accordance with specifications equal to

those applying to work of a similar nature performed within Waco, but neither party hereto will be required to restore the other's property to a condition exceeding its original condition, unless otherwise mutually agreed In Writing. Waco and Customer agree to coordinate the location of the mains and facilities in the other's easements and rights-of-way in order to prevent conflicts insofar as reasonably practicable.

7. Metering and Sampling

7.1 All flow discharged into the Waco System by Customer shall be metered, except as provided in below Section 7.2. Should both parties agree In Writing that metering is not possible, the agreed upon method for determining the discharge volume for such area(s) shall be deemed to include an adjustment for Infiltration and Inflow.

7.2 If, in the judgment of the Director, the Wastewater generated within the retail service area producing Wastewater discharged to Waco and applicable to Customer cannot be accurately measured by an approved metering station, then the charge for sanitary sewer service will be based on an alternative method as agreed to, In Writing, by the parties. Specific to water usage information that may be utilized within an alternative methodology, Waco shall have the right to audit Customer's water usage records and Customer shall produce them to the Waco within ten (10) business days of Waco's written request.

7.3 Customer shall have access to the Metering and Sampling Facilities at all reasonable times as coordinated with the City of Waco; provided, however, that any reading, calibration or adjustment to such metering equipment shall be done by employees or agents of Waco. Waco shall notify the Customer at least 72 hours in advance of the date and time for any reading, calibration or adjustment, and Customer may be present and observe, if so desired.

7.4 All readings of meters will be entered into data collection systems maintained by Waco. Customer shall have access to such records during reasonable business hours and shall be furnished with monthly totalizer readings for each Metering and Sampling Facility at a Point of Entry. Customer, at Customer's expense, may plug into Waco's SCADA system in order to monitor's Customer's System; Customer will pay for its SCADA signals while Waco will pay for Waco's SCADA signals.

7.5 Waco shall calibrate and service the meters no less than once each six months (that is once every 180 days). Copies of the results of the six-month calibration, velocity profiles, and all related information shall be provided to Customer on request.

7.6 After a calibration is completed, if it is determined that a meter is under-metering or over-metering wastewater flow by more than 5%, the registration of the flow

as determined by the meter shall be corrected for a period extending back to the time such inaccuracy began, if such time is ascertainable; or, if such time is not ascertainable, then for a period extending back one-half of the time elapsed since the date of the last calibration, but in no event further back than a period of twelve months.

7.7 If any meter used to determine volume from Customer is out of service or out of repair so that the amount of wastewater metered cannot be ascertained or computed from the reading thereof, the wastewater delivered through the period such meter is out of service or out of repair shall be the average use of the last twelve months plus three percent, divided by three-hundred and sixty-five, and the result multiplied by the number of days the meter is out of service or out of repair.

7.8 Waco shall periodically determine the quality of the Wastewater at the Metering and Sampling Facilities or other agreed upon sampling points for the purposes of billing for the Strength of the Wastewater. The sampling and testing shall occur on a random basis once per month specific to wastewater strength, and four (4) times per year specific to the local limits identified in Exhibit D. To determine the quality of the Wastewater, Waco shall collect 24-hour composite samples where feasible. If, at the request of Customer or at the request of the Director, more extensive monitoring is desired, such additional monitoring shall be paid for by the party making the request and shall be done in compliance with this Section. If Customer requests such additional monitoring, Waco shall invoice Customer and payment shall be made within thirty (30) days after receipt of invoice. Waco shall analyze the samples collected in accordance with Standard Methods and will provide analysis reports to the Customer, if requested.

7.9 If in the opinion of the Director, compliance monitoring is required, the Director may order that additional monitoring be performed with or without prior notice to Customer. Compliance monitoring is to be in addition to the periodic sampling set forth in Section 7.8. All information obtained as a result of such compliance monitoring shall be provided to the Customer upon request. Waco will provide notice of such compliance monitoring to Customer within a reasonable time thereafter.

7.10 Costs incurred by Waco under this section will be considered to be an Operations and Maintenance Expense.

8. Rates and Charges

8.1 Wholesale wastewater rates established hereunder will be determined based upon an annual cost-of-service analysis using the methodologies and principals generally accepted within the industry, as applicable. The cost of such analysis will be considered an

Operations and Maintenance Expense. Rates to be charged under this Contract will consist of the following:

(a) An Operations and Maintenance Rate ("O&M Rate") to recover Operation and Maintenance Expense as defined in Section 1.25 of this Contract. The following general terms and conditions will apply to the O&M Rate:

- i. The O&M Rate will be paid per 1,000 gallons based on actual metered flow (or the flows as laid out in Section 6.2) entering the Waco Wastewater Treatment and Regional Collection Facilities. Waco will base the fee on actual sewage flows from the prior twelve-month period ending on April 30th.
- ii. The O&M Rate will be the same for all customers for Wastewater treatment service, including Waco.
- iii. The O&M Rate will include all Waco Expenses associated with the Waco Wastewater Treatment and Regional Collection Facilities which are Operations and Maintenance Expenses
- iv. Customer specifically agrees that Operations and Maintenance Expenses will include, but not be limited to, expenses related to the City of Waco's Fats, Oils and Greases (FOG) Program. In order for Waco employees to perform their duties under the FOG Program, Customer shall first have an ordinance requiring cleaning and maintenance of any facility in Customer's jurisdiction that generates fats, oils, or greases as a result of food manufacturing, processing, or preparation, or food service. Said ordinance shall allow for Waco to (1) provide monitoring and inspections of, and (2) have right of entry into, said facilities within Customer's jurisdiction. Customer is responsible for any enforcement actions concerning any violation found during Waco's inspection(s). Customer's failure to adopt the required ordinance will not exclude Customer from paying expenses associated with the FOG Program.
- v. The O&M Rate will exclude principal and interest payments associated with outstanding debt maintained by the City of Waco at the time of closing.
- vi. Revenue from the sale of reclaimed or reuse water deriving from a contract executed prior to this Contract (and as renewed) will not be included as an offsetting revenue in the calculation of the O&M Rate. Said revenues derived from contracts executed prior to the Effective Date of this Contract shall be divided between the Cities of Bellmead, Hewitt, Lacy Lakeview, Robinson, Waco, and Woodway based on the ratio of each City's flows into the Waco Wastewater Treatment and Regional Collection System to the sum of all flows from those six

cities. This ratio will be calculated annually at the same time as the O&M Rate is calculated and will remain in effect for a twelve (12) month period. Revenues from the sale of reclaimed or reuse water derived from contracts executed after the Effective Date of this Contract will be included as an offsetting revenue in the calculation of the O&M Rate.

- vii. The O&M Rate will be based on the Waco's adopted Fiscal Year budget and will include Administrative Costs, Indirect Costs and any required monies to maintain reserves in accordance with the financial policies adopted by the Waco City Council. The budgeted values will be determined no later than May 31st of every year and will be presented and discussed with the Wholesale Wastewater Advisory Committee.

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- (b) A Capital Rate (the "Capital Rate") to recover the cost of cash funded outlays by Waco or the Debt Service Requirements associated with Waco Debt Obligations issued specifically to fund Capital Improvement Expenses, as defined in Section 1.6 of this Contract, for the improvement, repair or replacement of Waco Wastewater Treatment and Regional Collection Facilities, which do not add to the Wastewater treatment capacity of such facilities. The following general terms and conditions will apply to the Capital Rate:

- i. The Capital Rate will only include cash funded outlays made by Waco or Debt Service Requirements associated with Waco Debt Obligations issued to fund Capital Improvement Expenses for the improvement, repair or replacement of Waco Wastewater Treatment and Regional Collection Facilities in existence on the date such Waco Debt Obligations are issued, but which do not expand or add to the capacity of such facilities. The Capital Rate shall also include capital projects which were under design or construction between the Closing Date and Effective Date of this Contract.
- ii. The Capital Rate will be paid by customers based on their proportionate share of treatment capacity in the Waco Wastewater Treatment and Regional Collection Facilities as of the date of such cash funded outlay or issuance of such Waco Debt Obligations, and will be paid in such amounts and at such times as may be agreed to by Waco and the Customer In Writing at the time of such cash funded outlay or issuance of Waco Debt Obligations.
- iii. The Capital Rate will specifically exclude any debt issued and expended by the City of Waco prior to contract execution specific to the Waco Wastewater Treatment and Regional Collection Facilities.

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The Capital Rate may include debt issued by Waco before the effective date of the contract, but expended after contract execution.

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(c) A Capacity Expansion Rate (the "Capacity Expansion Rate") to recover the cost of cash funded outlays by Waco or Debt Service Requirements associated with Waco Debt Obligations issued specifically for Capital Improvement Expenses as defined in Section 1.6 of this Contract for the development or expansion of new or expanded treatment or transmission facilities that will result in additional capacity in the Waco Wastewater Treatment and Regional Collection Facilities. The following general terms and conditions will apply to the Capacity Expansion Rate:

- i. The Capacity Expansion Rate will only include cash funded outlays and Debt Service Requirements on Waco Debt Obligations issued to fund Capital Improvement Expenses associated with the development of new or expanded transmission or treatment facilities that will result in additional capacity.
- ii. The Capacity Expansion Rate will be paid by customers based on their proportionate share of new treatment or transmission capacity as may be subscribed to and will be paid in such amounts and at such times as may be agreed to by Waco and the Customer In Writing at the time of such cash funded outlay or issuance of Waco Debt Obligations.

(d) An Interim Capacity Expansion Rate to reimburse Waco for the use by Customer of excess capacity in the Waco Wastewater Treatment and Regional Collection Facilities when a Customer exceeds its capacity subscription, but an immediate plant expansion is not required as outlined in Section 4.3. The following general terms and conditions will apply to the Interim Capacity Expansion Rate:

- i. The Interim Capacity Expansion Rate, stated in MGD, will be based upon Waco's original capacity investment costs divided by Waco's previous annual flows and will be determined on an annual basis.
- ii. The Interim Capacity Expansion Rate will be charged monthly based on the excess capacity of Waco (in MGD) utilized by the Customer.
- iii. Revenues from the Interim Capacity Expansion Rate will be for the sole benefit of Waco and will not be used to offset any costs within the calculation of rates to customers.
- iv. At such time as a Customer's capacity in a plant is increased in accordance with the terms of this Contract, then Customer's Interim Capacity Expansion Rate will expire and be replaced with the Capacity Expansion Rate outlined in this Contract.

(e) Excess Strength Surcharge to recover the cost of Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), Total Phosphorus (TP), and Total Kjeldahl Nitrogen (TKN) exceeding the levels defined in Exhibit D of this Contract. The following general terms and conditions will apply to the Excess Strength Surcharge:

Commented [KP11]: Edits made to this Section post-March 25th meeting

- i. The excess charge will be calculated each month based upon the City's then applicable wastewater surcharge rates using the formula outlined in Exhibit E.
- ii. The surcharge will be assessed the entire month.

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8.2 Waco and Customer recognize that the price the Customer is required to pay for Wastewater treatment services under this Contract is directly related to Waco's obligations to pay the Debt Service Requirements on Waco Debt Obligations issued for the purpose of providing its Wastewater treatment and transmission system and Waco's obligations as a public utility to operate and maintain such system in accordance with appropriate regulatory requirements and good business management practices. Consequently, the obligations of the Customer to pay for Wastewater treatment services pursuant to the provisions of this Contract shall be absolute and unconditional, irrespective of any rights of set-off, recoupment or counterclaim the Customer might otherwise have against Waco and Customer will not suspend or discontinue such payment or [(except in accordance with Section 20)] terminate this Contract for any cause whatsoever. This Section 8.2 shall not be construed to release Waco from the performance of any of its agreements contained herein or, except to the extent provided in this Section 8.2 permit or restrict the Customer from asserting any rights it may have against Waco.

8.3 The initial rates for this Contract shall be those adopted by the Waco City Council on or before September 30, 2019, with an effective date on or after October 1, 2019. Customer will receive notice of the initial rates within 10 business days of the rates being established by the Waco City Council.

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The types of rates are listed below (as a summary of the paragraphs above):

Operations and Maintenance Rate:	at a <i>per 1,000 gallons</i> rate
Capital Rate:	at a <i>per MGD</i> rate
Capacity Expansion Rate <u>(or Interim</u>	
<u>Capacity Expansion Rate:</u>	at a <i>per MGD</i> rate
Excess Strength Surcharges:	<i>per month based on excess strengths</i>

Any challenge to a rate established by the Waco City Council must be brought within ninety (90) days of its adoption.

8.4 Each month during the term of this Contract, Waco shall prepare and deliver to Customer a billing statement showing the Customer's total flow, Customer's Contract Capacity, O&M Rate and resulting charges, Capital Rate and resulting charges, Interim and or Capacity Expansion Rate and charges, and Excess Strength Surcharge Fees, as each may be applicable to customer.

8.5 Customer shall make payment by the thirtieth (30th) day after the date the Customer receives an invoice from Waco. Payment shall be considered late if not received by Waco by the 30th day after delivery of said bill, unless a protest or dispute is filed as provided in Section 8.6.

8.6 If Customer has a protest or dispute concerning a statement, Customer shall notify Waco In Writing within twenty-one (21) days of delivery of said statement to Customer; notice shall be sent by Customer in accordance with Section 15 of this Contract. Customer shall pay the portion of the statement that is not being disputed or protested. Upon written notification from Customer, the portion of the statement under dispute or protest (provided the dispute or protest is made in good faith and is not unreasonable) will be set aside until resolved.

(1) Waco and Customer will negotiate in good faith to resolve the dispute. Any dispute that is not so resolved will be submitted to non-binding mediation.

(2) If the dispute is resolved in favor of Waco, then Waco is entitled to receive interest on the unpaid balance of the invoice submitted by Waco beginning on the thirty-first (31st) date after the payment was due. If the dispute is resolved in favor of the Customer, then Waco shall submit a corrected invoice that must be paid within thirty (30) days of its receipt by the Customer. In either case, interest will accrue at the rate in effect on September 1 of the Fiscal Year in which the payment becomes overdue; said rate is equal to the sum of (1) one percent; and (2) the prime rate as published in the Wall Street Journal on the first day of July of the preceding Fiscal Year that does not fall on a Saturday or Sunday.

(3) This section is subject to any future amendments to the Texas Government Code, Section 2251 (Texas Prompt Payment Act)

8.7 Waco and Customer agree that services obtained pursuant to this Contract are essential and necessary to the operation of Customer's waterworks and wastewater facilities and that all payments made by each Customer hereunder shall constitute reasonable and necessary operating expenses of Customer's waterworks and wastewater systems, including for the purposes of the provisions of any and all ordinances of Customer

authorizing the issuance of any revenue bond issues of Customer which are payable from its waterworks and wastewater systems.

8.8 Customer agrees, throughout the term of this Contract, to fix and collect such rates and charges for wastewater service to be supplied as will produce revenues in an amount equal to at least (i) all of operation and maintenance expenses of such Customer's System, including specifically its payments under this Contract; and (ii) all other amounts as required by law and the provisions of the ordinances or resolutions authorizing its revenue bonds or other obligations now or hereafter outstanding, including the amounts required to pay all principal of and interest on such bonds and other obligations.

8.9 The parties agree that the rates initially established under this Contract by Waco and the policies defined in this Contract are just and reasonable, and do not adversely affect the public interest. Notwithstanding any provision to the contrary, Customer does not waive the right to file and pursue an appeal of any increase in rates proposed or adopted by Waco that is not in conformance with this Contract.

8.10 To the extent that any mediation proceeding or any legal or administrative proceeding is hereafter instituted by Waco or by Customer or any other wholesale wastewater customer of Waco, which proceeding in any way relates to the terms, the rates, or the methodology or rate model used in performing the Cost of Service Study to establish rates related to wastewater service provided by Waco under this Contract, Customer and Waco agree that the reasonable expenses incurred by Waco in participating in such proceedings shall be deemed to be incurred for the benefit of, and are solely attributable to, the Wholesale Customer Class of Waco and are not incurred for the benefit of, or attributable to, Waco retail customers. Accordingly, all such reasonable expenses shall be billed to Customer, except to the extent that a regulatory authority finds that the rate case expenses incurred by Waco were not reasonable and necessary.

9. Industrial Connection and Monitoring

9.1 Customer agrees that it will at all times comply with the Pre-treatment program outlined in Exhibit "B".

9.2 Should Waco determine that amendments are needed to Exhibit "B", Waco will provide a draft of such amendments to the Wholesale Wastewater Advisory Committee for review and discussion. Following consultation with the Wholesale Wastewater Advisory Committee, Waco will provide a final version of the amended Exhibit "B" reflecting its consideration of the Committee's edits and comments. The final version of the amended Exhibit "B" will automatically become effective thirty (30) days following the presentation thereof to the Wholesale Wastewater Advisory Committee.

10. Infiltration and Inflow

10.1 Customer agrees that it has an obligation to prevent Infiltration and Inflow into its Customer's System from entering the Waco System. Customer further agrees that all sewer connections within its jurisdiction, which ultimately enter into the Waco System, will be constructed in accordance with specifications and standards at least equal to those of the City of Waco technical specifications and construction standards. Further, Customer covenants and agrees to maintain strict supervision and maintenance of Customer's System to prevent connections through which surface drainage can enter Customer's System, in order to prevent such drainage from ultimately being deposited into the Waco System. Customer shall not make, nor shall it permit to be made, any connection which will contribute storm water run-off from rainwater spouts, rainwater areas, streets, gutter drain, or other source into its sanitary sewer system.

11. Sludge Disposal

11.1 Customer recognizes the importance of processing and disposing of sludge in a timely and proper manner. Customer will cooperate with Waco in any environmentally sound sludge processing and disposal program meeting federal and state standards within the area served by Customer.

12. Wastehaulers

12.1 Customer shall not introduce or permit to be introduced, and shall prohibit the introduction of, Liquid Waste into the Customer System by Liquid Waste haulers, either directly or indirectly.

13. Reports and Records

13.1 If requested by the Director or Customer, the other party shall provide the following data on a quarterly basis:

(A) Actual number of customer accounts discharging directly or indirectly into the Waco System or Customer System within its service area;

(B) Classification of Domestic Accounts and Non-domestic Accounts within its service area by number and percentage of accounts discharging directly or indirectly into the Waco System or Customer System within its service area; and,

(C) Additional data which may assist Waco or Customer in developing methodology for cost-of-service studies, planning studies for analyzing federal grants, and system access fees; provided, however, that neither party shall request data that will require either party to incur unreasonable expenses in providing such data or require the production of confidential information.

14. Notices

14.1 Any notice, communication, request, reply or advice herein provided or permitted to be given, made or accepted by either party to the other party must be In Writing to:

City of Waco: Director of Waco Water Utility Services
City of Waco
200 Colcord Avenue
Waco, Texas 76707

Customer:

14.2 The parties hereto shall indicate In Writing any change that may occur in such respective addresses from time to time.

15. Inspection and Audit

15.1 Complete records and accounts shall be maintained by each party hereto for a minimum period of five years. Each party shall at all times, upon notice, have the right at reasonable times to examine and inspect records and accounts during normal business hours; and further, if required by any law, rule or regulation, make the records and accounts available to federal and state auditors.

16. Consent

16.1 Whenever, under the terms of this Contract, Waco is permitted to give its written consent or approval, Waco, in its discretion, may give or may refuse such written consent or approval and, if given, may restrict, limit or condition such consent or approval in any manner it shall deem advisable.

17. Waiver, Remedy, Severability

17.1 No waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

17.2 ~~This Contract shall be governed by the laws and Constitution of the State of Texas. Venue for any action shall be in McLennan County, Texas.~~

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17.3 It is agreed that, in the event any term or provision of this Contract is held to be invalid by any court of competent jurisdiction, the invalidity of such term or provision shall in no way affect any other term or provision contained herein; further, this Contract shall then continue as if such invalid term or provision had not been contained herein.

18. Ownership and Liability

18.1 No provision of this Contract shall be construed to create any type of joint or equity ownership of any property, any partnership or joint venture, nor shall same create any other rights or liabilities other than as specifically created herein, and Customer payments (whether past, present, or future) will not be construed as granting Customer partial ownership of, pre-paid capacity in, or equity in the Waco System.

18.2 Liability for damages arising out of the transportation, delivery, reception, treatment, and disposal of all Wastewater discharged into the Waco System shall remain with the Customer, together with title and ownership thereto, until such wastewater passes through the Point of Entry to the Waco System, at which time title, ownership and liability for such damage shall pass to Waco, save and except that title to any prohibited discharge and any liability therefor shall not pass to Waco. **Further, to the extent allowed by law, the parties hereto agree to indemnify, save and hold the other party harmless from any and all claims, demands, causes of action, damages, losses, costs, fines and expenses, including reasonable attorney's fees, that may be asserted by anyone at any time on account of the transportation, delivery, reception, treatment and/or disposal while title to the wastewater is in such party. If such liability for damages is not attributable to a specific customer or Waco, such liability shall be considered an Operations and Maintenance Expense.**

18.3 Nothing in this Contract shall be construed as waiving sovereign immunity or any other immunity to which Customer or Waco may be entitled to under state or federal law.

18.4 Contracts made and entered into by either Customer or Waco for the construction, reconstruction or repair of any Delivery Facility shall include the requirements that the independent contractor(s) must provide adequate insurance protecting both the Customer and Waco as insured. Such contract must also provide that the independent contractor(s) covenant to indemnify, hold harmless and defend both the Customer and Waco against any and all suits or claims for damages of any nature arising out of the performance of such contract.

19. Compliance with Permit Conditions

19.1 Customer acknowledges that Waco is the holder of discharge permits issued by the United States and the State of Texas. Customer agrees that it will comply with all such permit conditions in any way relating to the collection system and the Customer's discharge into the collection system. **Customer agrees that in the event a fine is assessed against Waco for any violation of any permit condition, and the violation is attributable to any act of omission or commission by Customer, to indemnify Waco and pay to Waco the amount of such fine.** If such fine is not attributable to a specific customer, such fine shall be considered an Operations and Maintenance Expense and allocable to the customer in accordance with the provisions of this Contract.

20. Force Majeure

20.1 No party hereto shall be considered to be in default in the performance of any of the obligations hereunder (other than obligations of either party to pay costs and expenses) if such failure of performance shall be due to circumstances beyond the reasonable control of the parties, including but not limited to, the failure of facilities, flood, earthquake, tornado, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute and action or non-action by a failure to obtain the necessary authorizations and approvals from any governmental agency or authority or the electorate, labor or material shortage, sabotage, or restraint by a court order or public authority, which by the exercise of due diligence and foresight such party could not have reasonably been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Either party rendered unable to fulfill any obligation by reason of an uncontrollable force shall exercise due diligence to remove such inability with all reasonable dispatch. In the event the proper operation of the Waco System, as a result of the foregoing, requires Waco to temporarily interrupt all or part of the services to Customer, no claims for damage shall be made by Customer against Waco.

21. Termination

21.1 This Contract may be terminated in whole or in part by the mutual consent of Customer and Waco. Notwithstanding anything contained herein to the contrary, any material breach by either party hereto to perform any of the duties or the obligations assumed by such party hereunder or to faithfully keep and perform any of the terms, conditions and provisions hereof shall be cause for termination of this Contract by Waco in the manner set forth in this Section of the Contract. Waco shall deliver to Customer sixty days prior written notice of its intention to so terminate this Contract if Customer fails to cure or adjust such material breach, including in such notice a reasonable description of the breach. If within said sixty days Customer shall fail or refuse to cure such default to the satisfaction of Waco, then and in such event, Waco shall have the right with three months advance written additional notice to Customer and without any liability whatsoever on the part of Waco to declare this Contract terminated. In the event of termination of this Contract, all rights, powers, and privileges of Customer hereunder shall cease and terminate and Customer shall make no claim of any kind whatsoever against Waco, its agents or representatives, by reason of such termination or any act incident thereto, provided Waco acted reasonably and such termination was not unreasonable, arbitrary and capricious. Waco shall advise Customer In Writing immediately upon acceptance of the cure of any default. The following breach, default or failure to perform a duty or obligation shall be considered to be a material breach:

(A) Failure to adopt and enforce any ordinance required to be adopted and enforced herein;

(B) Failure to make any payment of any bill, charge or fee as provided for in this Contract;

(C) Making any connection to the Waco System at any point except as provided in Section 2.3 hereof;

(D) Failure to provide Waco ingress and egress for purposes of sampling and operation and maintenance of any metering or any sampling facility;

(E) Failure to provide Waco rights-of-way as required herein;

(F) Failure to permit any sampling of wastewater as provided for herein;

(G) Failure to comply with any provision in Exhibit "B"

21.2 In the event of any breach, default or failure of Customer to perform any duty under this Contract, Waco shall deliver to Customer written notice of such breach, default or failure. If Customer fails to cure such breach, default or failure within sixty (60) days

of receipt of said notice, then Waco shall give Customer a written notice of such failure to cure and may surcharge Customer, retroactively to the initial date of notice issuance, Five-Hundred Dollars (\$500.00) per day until such time as Customer cures the noticed breach, default, or failure, or until such time as a judgment is entered into against the Customer.

21.3 Any failure by Waco to so terminate this Contract or the acceptance by Waco of any benefits under this Contract for any period of time after such material breach, default or failure by Customer shall not be determined to be a waiver by Waco of any rights to terminate this Contract for any subsequent material breach, default or failure.

21.4 Any failure by Customer to so terminate this Contract or the acceptance by Customer of any benefits under this Contract for any period of time after such breach, default or failure by Waco shall not be determined to be a waiver by Customer of any rights to terminate this Contract for any subsequent material breach, default or failure.

22. Term of Contract, Effective Date and Renewal

22.1 This Contract, together with all terms and conditions and covenants, shall be effective as of the Effective Date.

22.2 Unless sooner terminated pursuant to Section 20 this Contract will continue in force and effect until the later of (i) the date that is forty (40) years following the Effective Date or (ii) the date on which all Waco Debt Obligations issued for the purposes described in Section 7.1(b) and (c), and with respect to which the Customer has incurred Capital Charges or Capacity Expansion charges, are paid in full and discharged. As provided for in Section 2.2 of this Contract, Waco's commitment to provide Customer with capacity in the wastewater treatment facilities shall continue until such time as Customer stops conveying wastewater to the Waco Wastewater Treatment Plant and Regional Collection Facilities pursuant to this Contract. Upon the expiration of the term of this Contract, Customer shall have no right, express or implied, to continuing service from Waco.

22.3 Customer shall have options to renew this Contract for terms of twenty years under conditions and at rates as may be mutually agreed to In Writing by the Parties. The first renewal term will begin following the later of the dates in Section 21.2(i) and (ii)). Customer specifically acknowledges that the ability of Waco to renew this Contract at a higher capacity specific to Customer than that stated in Exhibit "A" as may be amended from time to time subject to Waco first determining in Waco's sole discretion that Waco is projected to have, for the term of the renewal, sufficient capacity available after meeting the demands of Waco's existing and potential retail customers. Customer is required to

provide Waco with Notice of Customer's desire to exercise a renewal option; each Notice is due to Waco no later than ten years before the current term is set to expire.

22.4 Renewal of this Contract is further subject to all state and federal laws and regulations that may limit Waco's or Customer's legal authority or ability to renew this Contract.

23. Wholesale Wastewater Advisory Committee

23.1 Customer's governing body shall annually appoint a representative to be a member of the Wholesale Wastewater Advisory Committee which Committee is hereby created and established and whose purpose shall be to consult with and advise Waco, through the Director, on matters pertaining to planning, improvements, grants, rate studies, budgets, administration, and additional wholesale customers, whether same be wholesale customers of Customer or Waco. The Committee, at its first meeting, shall elect a Chairman, Vice Chairman and Secretary. The Committee may establish bylaws governing the election of officers, meeting dates and other matters pertinent to its functioning.

23.2 The Wholesale Wastewater Advisory Committee shall meet as requested by Waco or as called to meet by the chairperson, but in no event less than once annually.

23.3 Prior to any increase in the rates or charges under this Contract, or before any increase in the wastewater treatment capacity under this Contract, the Committee shall meet to advise Waco with regard to the proposed changes.

24. Miscellaneous

24.1 Nothing in this Contract shall prohibit Waco from contracting with an independent, third-party for the operation or maintenance of any or all of the wastewater collection or treatment facilities if it is deemed by Waco to be in its best interest of the City and its wholesale customers to do so. Waco must notify customers of its intent to enter into a contracting relationship, but the customer may in no way prohibit or prevent the City from doing so. However, at no time while this Contract is in effect will Waco sell its wastewater treatment facilities to a third-party without the unanimous consent and approval of each City provided service under this Contract.

24.2 **Assignment.** Customer agrees that Customer may not assign its rights and obligations hereunder without prior written approval of Waco.

24.3 **Mediation Required.** Waco and Customer agree that prior to filing a lawsuit or an administrative complaint with a regulatory agency seeking compensation or

injunctive relief against the other, the parties agree to submit the disputed matter to non-binding mediation. Venue of such mediation, as well as any litigation, shall be in McLennan County, Texas.

24.4 This Contract is subject to all applicable federal and state laws and any applicable permits, or amendments to rules, orders and regulations of any state or federal governmental authority having or asserting jurisdiction, but nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule or regulation in any forum having jurisdiction.

24.5 The Customer agrees to abide by any changes in this Contract made necessary by any amendment or revision to state or federal regulations.

24.6 Any duly authorized employee of Waco bearing proper credentials and identification may notify Customer of the need for access to any premises located within Customer's city limits or served by Customer for the purpose of inspections and observation, measurement, sampling, testing and auditing, in accordance with the provisions of this Contract, and Customer shall permit such access. Customer may elect to accompany the Waco representative.

Deleted: non-permitted

24.7 In each instance herein where reference is made to a federal or state regulation or ordinance, it is the intention of the parties that, at any given time, the current federal or state regulation or ordinance shall apply. If a publication or reference work referred to herein is discontinued or ceases to be the generally accepted work in its field, or if conditions change, or new methods or processes are implemented by Waco, new standards shall be adopted which are in compliance with state and federal laws and any valid rules and regulations pursuant thereto.

24.8 Waco must comply with all federal, state and local government requirements to obtain grants and assistance for system design, system construction and studies. Customer agrees to assist Waco in compliance by setting adequate rates, establishing proper user charges and complying with governmental requirements.

24.9 Section headings in this Contract are for convenience only and do not purport to accurately or completely describe the contents of any section. Such headings are not to be construed as a part of this Contract or any way defining, limiting or amplifying the provisions hereof.

24.10 **Entire Agreement.** This Contract and any Exhibits hereto embody the entire agreement and understanding of Waco and Customer hereto and supersede any and all prior agreements, arrangements and understandings relating to the matters provided for herein.

No amendment, waiver of compliance with any provision or condition hereof or consent pursuant to this Contract shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of any amendment, waiver or consent is sought. This Contract may not be amended or modified except In Writing executed by all Parties and authorized by their respective governing bodies.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their respective officers thereunto duly authorized.

ATTEST: CITY OF WACO, TEXAS ("OWNER")

Commented [KP15]: New language

By: _____ By: _____
City Secretary City Manager

Date: _____ Date: _____

ATTEST: CUSTOMER: City of _____
Texas

Commented [KP16]: New language

By: _____ By: _____
City Secretary City Manager

Date: _____ Date: _____

WHOLESALE WASTEWATER CONTRACT

EXHIBIT A

Wastewater Treatment Capacities (in MGD)
as of Effective Date of Contract

City Central Plant

Bellmead	2.3083
Hewitt	2.5043
Lacy Lakeview	1.0546
Lorena	0.0000
Robinson	1.5711
Waco	34.8917
Woodway	2.6700
TOTAL	45.0000

City	Bullhide
Bellmead	0.0000
Hewitt	
Lacy Lakeview	0.0000
Lorena	0.3200
Robinson	0.0000
Waco	
Woodway	0.0000
TOTAL	1.5000

Commented [KP17]: Amounts still to be added to this chart.

WHOLESALE WASTEWATER CONTRACT

EXHIBIT B

Pre-treatment Program Requirements

Section 1

Pretreatment Program & Sewer Quality

- 1.1 General Quality Requirements.** Waco must implement and enforce a pretreatment program from all industrial users of its wastewater treatment system pursuant to requirements set forth in the EPA pretreatment regulations, TCEQ pretreatment regulations, the List of Prohibited Discharges and Technically Based Local Limits outlined in Exhibit D, the Pretreatment Program outlined herein, and the Customer's sewer use ordinance. In this contract Customer agrees to adopt a sewer use ordinance that subjects the industrial users within its boundaries to the necessary pretreatment controls, and to implement and enforce the sewer use ordinance.

In order to permit Waco to properly treat and dispose of the wastewater, to protect public health and wastewater system personnel, prevent interference and pass through, improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater system, and to permit cooperation with other agencies which have requirements for the protection of the physical, chemical, and bacteriological quality of public water and water courses, each Customer agrees to prohibit discharges into the Waco Wastewater Treatment and Regional Collection Facilities at unauthorized Points of Entry or at rates of flow or of quality not herein specified as admissible.

- 1.2 Admissible Wastes.** Discharges into the Waco Wastewater Treatment and Regional Collection Facilities shall consist only of waste that said facilities are capable of handling:
- a. So that the effluent and sludge from the Waco Wastewater Treatment and Regional Collection Facilities meets the current legal standards of the EPA, TCEQ, or any other governmental body having legal authority to set standards for such effluent;
 - b. Without causing damage to Waco Wastewater Treatment and Regional Collection Facilities that would result in increased operations or maintenance costs;
 - c. Without causing excessive treatment costs; and
 - d. That meet the requirements of the EPA Pretreatment regulations, 40 CFR Part 403, the Customer's applicable ordinance, and the EPA or TCEQ approved Pretreatment Program for Waco.
- 1.3 Inadmissible Wastes.** As needed, Waco will review the List of Prohibited Discharges

and Technically Based Local Limits in Exhibit D to determine if changes are needed in response to changes in federal or state requirements, changes in treatment process, or the general character of wastewater received at the Waco Wastewater Treatment and Regional Collection Facilities.

- a. EPA and TCEQ periodically modify standards on prohibited discharges; therefore, revisions to, additions to, or deletions from the items contained on the List of Prohibited Discharges and Technically Based Local Limits will become necessary to comply with the latest standards. It is the intention of this Contract that prohibited discharge requirements be reviewed periodically by Waco with the Wholesale Wastewater Advisory Committee and that items named in Exhibit D be revised in accordance with the latest standards by EPA, TCEQ, or federal or state agency having regulatory authority over discharges made into Waco Wastewater Treatment and Regional Collection Facilities.
- b. Any required revisions shall be made by Waco after notice to Customer and shall become effective as stated in such notice. Revisions must be implemented as stated in the notice from Waco to the Customer.
- c. Each Customer shall be responsible for integrating the List of Prohibited Discharges and Technically Based Local Limits and any changes thereto into its local sewer use ordinances. Waco will issue letters notifying all affected users of any changes.
 - i. No letter will be issued by Waco without the draft letter being reviewed and signed by the Customer. Each Customer has ten (10) business days to submit the signed letter back to Waco for submittal to the affected users.

1.4 Adoption of Ordinance. Each Customer will adopt a local sewer use ordinance that meets all federal and state standards and any discharge standards established by Waco. Such sewer use ordinance shall be no less stringent than, and will be as broad in scope as, the sewer use ordinance of Waco. The ordinance shall be adopted regardless of whether the Customer has an Industrial User currently discharging to its Internal Collection Facilities.

1.5 Amendments and Changes to Discharge Standards. Whenever Waco revises its sewer discharge standards, it will forward a copy of the revisions to each Customer. Each Customer will adopt revisions to its sewer use ordinance that are at least as stringent as the standards adopted by Waco

- a. Customer will forward to Waco for review its proposed revisions within thirty (30) days of receipt of Waco's revised standards.
- b. Waco will provide Customer with written approval, requested modification, or rejection of Customer's revised sewer use ordinance.
- c. Customer will adopt its revisions within sixty (60) days of receiving approval

from Waco of the content thereof.

- 1.6 **Specific Local Limits.** Each Customer will adopt and diligently enforce local limits. If Waco makes any revisions or additions to its local limits, Waco will forward to Customer a copy of such revisions or additions. Customer will adopt any such revisions or additions as required under Section 1.3.

Section 2

Responsibility for and Enforcement of Standards

- 2.1 **Waco's Duties.** Waco, on behalf of Customer, will perform technical and administrative duties necessary to implement and enforce the Customer's sewer use ordinance, including: (1) assisting with the update of the industrial waste survey; (2) drafting and issuing permits to all industrial users required to obtain a permit; (3) conducting inspections, sampling, and analysis of permitted industrial users; (4) reviewing and approving plans; (5) assisting with record keeping; (6) drafting and issuing all appropriate enforcement action as outlined in the Waco's approved enforcement response plan and provided for in the Customer's sewer use ordinance; (7) publishing the annual list of significantly noncompliant industries, as required by the regulations, and (8) performing any other technical or administrative duties Waco and Customer mutually agree are appropriate. Expenses incurred by Waco in those efforts shall be expenses of the Pretreatment Program and shall be paid for as provided in Section 4.
- 2.2 **Enforcement.** Each Customer has the ultimate responsibility for the enforcement of the Pretreatment Program within its corporate boundaries. Each Customer agrees to take whatever steps are necessary to implement and enforce its sewer use ordinance and Waco's local limits.
- a. Each Customer agrees to only discharge wastewater into Waco Wastewater Treatment and Collection Facilities that meets the required federal, state, and local standards.
 - b. If Waco determines that a problem or issue exist with regards to the quality of the wastewater at the POTW headworks, each Customer agrees to monitor the quality of sewage that it discharges into Waco Wastewater Treatment and Collection Facilities as requested by Waco to determine the source of the problem and to eliminate the problem.
 - c. If it can be shown that the source of wastewater that was the cause of the fine or penalty being assessed is specific to a Customer, that Customer shall be responsible for payment of the fine or penalty assessed for violating state or national sewage quality standards and/or the local standards for Admissible Wastes and Inadmissible Wastes, including List of Prohibited Discharges and Technically Based Local Limits.

- d. Each Customer agrees to monitor any work that its employees may conduct in and around the Waco Wastewater Treatment and Collection Facilities. If a violation of state or federal law and the local standards for Admissible Wastes and Inadmissible Wastes, including List of Prohibited Discharges and Technically Based Local Limits, is caused directly or indirectly by a particular Customer or its employees or contractors, that Customer shall be responsible for payment of any fine or penalty assessed
- e. Each Customer will take all actions necessary to ensure that industrial users within its boundaries comply with the approved pretreatment program. Each Customer shall take all appropriate enforcement action as outlined in Waco's approved enforcement response plan and provided for in the Customer's sewer use ordinance.
 - i. No enforcement action will be issued by Waco without the letter being reviewed and signed by the Customer. Each Customer has ten (10) business days to submit the signed letter back to Waco for submittal to the affected users.
- f. Each Customer shall take emergency action to stop or prevent any discharge that presents or may present an imminent danger to the health or welfare of humans, which reasonably appears to threaten the environment, or which threatens to cause interference, pass through, or sludge contamination of Waco Wastewater Treatment and Collection Facilities. The Customer shall notify Waco of such actions in advance of taking action, or as soon as possible thereafter if advance notice is not possible.
- g. Waco is specifically authorized to take emergency action to stop or prevent any discharge that presents or may present an imminent danger to the health or welfare of humans, which reasonably appears to threaten the environment, or which threatens to cause interference, pass through, or sludge contamination of Waco Wastewater Treatment and Collection Facilities. Waco shall notify Customer in advance of taking action if possible, or as soon as possible thereafter if advance notice is not possible.

2.3 Industrial Waste Survey. Customer will assist Waco in maintaining current information on industrial users located in its jurisdiction. Industrial Waste Surveys will be conducted every three (3) years, or more frequently as needed. Waco will contact Customer no less than twice a year to inquire regarding new industrial users. Waco will send surveys to new industrial users on an approved form.

2.4 Inspections and Sampling. Waco may, with notice to Customer, conduct inspections and sampling at any industrial user's facility located within Customer's jurisdictional boundary, as it deems necessary. Where practicable, Waco will provide notice at least forty-eight (48) hours in advance of a planned inspection to Customer. Customer may accompany Waco personnel during inspections conducted

under this program within the Customer's jurisdictional boundary. Waco will inspect permitted industrial users a minimum of once (1) per pretreatment year and sample a minimum of twice (2) per pretreatment year.

- 2.5 **Records.** Copies of all records related to the Pretreatment Program shall be provided to Waco within fourteen (14) days of the completion or creation of the records, except if otherwise provided for in this Contract

Section 3 Sewer Use Agreement / Permit

3.1 Industrial Users.

- a. New Industrial User. Before any new industrial user, including users who are subject to categorical pretreatment standards or who are classified as Significant Industrial Users, discharges into the Internal Collection Facilities of a Customer, the Customer agrees to provide 90 (ninety) days written notice to Waco of its intent to provide service to any new user who meets the definition of Significant Industrial User (SIU) and will ensure the new industrial user has obtained a sewer use permit, as applicable.
- b. Existing User.
 - i. Industrial users subject to a sewer use permit are required to monitor their discharges to determine when changes occur in the volume or character of the discharge. If the criteria set out in two (ii) or three (iii) below are met, the industrial user shall notify Waco and the Customer whose Internal Collection Facilities the user discharges into.
 - ii. Customer will require that if an existing industrial user increases the volume or load in its discharge above limits specified in a Sewer Use Permit or changes the character of its discharge from that stated in the application for its Sewer Use Permit, the existing industrial user will notify Waco of the change.
 - iii. If an industrial customer does not have a Sewer Use Permit, but changes its discharges so that it falls within the definition of a user subject to categorical pretreatment standards or a Significant Industrial User, Customer will require that industrial user to communicate this change to Waco.
 - iv. Waco will notify the Customer if Waco determines whether a Sewer Use Permit or an amendment to an existing Sewer Use Permit, is required.

- 3.2 **Sewer Use Permits.** Customer will allow Waco to implement and administer the Pretreatment program as outlined herein and as required by federal and state requirements. Waco will issue permits to all industrial users located within the Customer's jurisdiction as required.

- a. Permits will contain the information specified by Customer's Ordinance and 40 CFR Part 403.
 - b. No permit will be issued by Waco without the draft permit being reviewed and signed by the Customer.
- 3.3 Outside Jurisdictional Boundaries.** Before an industrial user located outside the jurisdictional boundaries of Customer discharges into Customer's Internal Collection Facilities, Customer and Waco will enter into an agreement with the industrial user regarding the discharges prior to any discharge into the Internal Collection Facilities of the Customer. Such agreement will be substantially equivalent to the requirements within this Contract.

Section 4

Cost of Industrial Pretreatment Program

- 4.1 Costs and Fees for Program.** All costs of the program outlined within this Exhibit shall be considered a Waco Expense associated with the Waco Wastewater Treatment and Regional Collection Facilities and recovered through the Operations and Maintenance Rate, unless otherwise allowed for as follows:
- a. All administrative fees collected with applications (original applications or renewals) for Sewer Use Permits shall be deposited with Waco to pay costs associated with the Pretreatment Program.
 - b. Waco will collect industrial waste surcharges outlined herein from Customer. Nothing in this Contract shall prohibit Customer from levying its own charges against an industrial customer within its jurisdictional boundary. Such charges levied by a Customer will be retained by Customer. All direct expenses related to the Pretreatment Program shall be billed directly to the Customer where the user is located. Through a Sewer Use Permit, an industrial user may be responsible for paying all direct costs either by paying the Customer or Waco, but the Customer shall be ultimately responsible and liable for the payment to Waco.
 - i. Direct expenses shall include, but are not limited to, costs for sampling and testing of samples. Direct expenses may also include monitoring, inspections, and surveillance procedures; reviewing accidental discharge procedures and construction; permit applications; filing appeals; consistent removal by Waco of pollutants otherwise subject to federal pretreatment standards, as applicable to a Customer.
 - ii. Customer shall have forty-five (45) days from receipt to pay a bill from Waco for direct expenses.
- 4.2 Allocation of Program Expenses.** Expenses for the Pretreatment Program that are not paid for through the collection of administrative fees and direct expenses shall be considered part of the O&M fee under this Contract.

4.3 Classification of Program Expenses. All expenses associated with the Pretreatment Program paid for by Customer shall constitute reasonable and necessary operating expenses of Customer's waterworks and wastewater system in accordance with Section 8.7 of this Contract

**WHOLESALE WASTEWATER CONTRACT
EXHIBIT C
SYSTEM CONNECTION POINTS**

DRAFT - FOR DISCUSSION PURPOSES ONLY

Page 41

WHOLESALE WASTEWATER CONTRACT

EXHIBIT D

List of Prohibited Discharges and Technically Based Local Limits

I. Prohibited Discharges:

- a. Wastewater having a temperature that would result in the total combined influent to the treatment plant to exceed a temperature of 104 degrees Fahrenheit.
- b. Wastewater having a pH value lower than 5.5 or higher than 10.5.
- c. Wastewater containing gasoline, benzene, naptha, fuel, oil, or other flammable or explosive liquid, solid or gas.
- d. Wastewater with a radioactive content greater than allowable by applicable provisions of the Texas Radiation Control Act, Article 4590 (f), Revised Civil Statutes of Texas, and the Texas Regulations for Control of Radiation issued thereunder.
- e. Wastewater, which alone or in conjunction with other wastewater, cause the wastewater entering the entry point into the Waco Wastewater Treatment and Regional Collection System to exceed a hydrogen sulfide concentration greater than 1.0 milligram per liter.
- f. Wastewater that will alone or in conjunction with other wastewaters cause the treatment plant influent (Headworks) to contain a toxic phenol concentration greater than 1.428 milligrams per liter.

II. Technically Based Local Limits:

- a. The combined volume of all industrial wastewaters discharged by industrial dischargers in the Waco Wastewater Treatment and Regional Collection System shall not contain the listed pollutants in excess of the loadings listed below without prior written approval from Waco. Waco will monitor for those pollutants as prescribed herein. Should the analysis indicate any of the pollutants listed are approaching or exceeding the Waco Wastewater Treatment and Regional Collection System Headworks Limits, Waco shall determine the source of the pollutants and require the generator to reduce or cease discharge of the pollutant and/or commence monitoring of the pollutant as required in the then applicable Waco Pretreatment Program. The following pollutant limits are established to protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of the following:

Parameter	Central Plant		Bull Hide Plant	
	Maximum Allowable	Uniform Concentration	Maximum Allowable	Uniform Concentration

	Industrial Loading (MAIL) / (lbs/day)	Limit [TBLL] (mg/l)	Industrial Loading (MAIL) / (lbs/day)	Limit [TBLL] (mg/l)
Arsenic	0.71	0.03	0.0665	0.14
Cadmium	1.50	0.07	0.0268	0.06
Chromium	47.39	2.06	1.2553	2.69
Chrome (VI)	9.45	0.41	0.3836	0.82
Copper	17.51	0.76	0.4569	0.98
Cyanide	13.063	0.57	0.2236	0.48
Lead	8.25	0.36	0.2479	0.53
Mercury	0.09340	0.004	0.0118	0.03
Molybdenum	28.10	1.22	0.1194	0.26
Nickel	13.93	0.60	0.8592	1.84
Selenium	1.78	0.08	0.0517	0.11
Silver	10.92	0.47	0.5687	1.22
Zinc	43.62	1.89	1.0867	2.33

III. Surcharges

- a. Industrial wastewater, which alone or in conjunction with other wastewaters, causes the wastewater entering any entry point into the Waco Wastewater Treatment and Regional Collection Facilities to exceed limits established by the Waco City Council will be subject to surcharging if the conventional pollutant is not causing interference with the operation of the treatment works or could cause a violation of the Waco State or Federal discharge permit provisions.

Commented [CE18]: Need to reconcile with 7.2(d)

IV. Other

- a. Discharges must comply with the requirements of the Resource Conservation and Recovery Act Requirements as adopted by the State of Texas

WHOLESALE WASTEWATER CONTRACT

EXHIBIT E

Wastewater Surcharge Formula

In accordance with Section 8.1 of the Contract and the provisions of Section III, Exhibit D, Customers will be surcharged if their BOD, TSS, TP, and TKN Strengths exceed the normal strength loadings. The basis for the surcharge on waste shall be determined by the following formula:

$$\text{Total Surcharge} = S_1 + S_2 + S_3 + S_4$$

Where:

$$S_1 = \text{BOD Surcharge}$$

Where:

$$S_1 = T_1 + T_2 + T_3$$

Where:

$$T_1 = C_1 * V * 8.34 * R_1$$

$$T_2 = C_2 * V * 8.34 * R_2$$

$$T_3 = C_3 * V * 8.34 * R_3$$

Where:

T_1 = Tier 1 BOD strength to be surcharged defined as 240-1,000 mg/l. Total BOD strength less than the Tier 1 minimum will not be charged a Tier 1 rate.

T_2 = Tier 2 of BOD strength to be surcharged defined as 1,001-1,550 mg/l. Total BOD strength less than the Tier 2 minimum will not be charged a Tier 2 rate.

T_3 = Tier 3 of BOD strength to be surcharged defined as 1,551-5,000 mg/l. Total BOD strength less than the Tier 3 minimum will not be charged a Tier 3 rate.

$$C_1 = \text{Lessor of } (BOD - L_0) \text{ and } (L_1 - L_0)$$

$$C_2 = \text{Lessor of } (BOD - L_1) \text{ and } (L_2 - L_1)$$

$$C_3 = \text{Lessor of } (BOD - L_2) \text{ and } (L_3 - L_2)$$

BOD = Biochemical oxygen demand concentration measured in mg/l based on monthly grab sample

L_0 = Normal BOD Strength in mg/l defined as 240 mg/l

L_1 = Maximum Tier 1 BOD Strength in mg/l defined as 1,000 mg/l

L_2 = Maximum Tier 2 BOD Strength in mg/l defined as 1,550 mg/l

L_3 = Maximum Tier 3 BOD Strength in mg/l defined as 5,000 mg/l

V = Total Sewage Flow in millions of gallons during the billing period

8.34 = Pounds per gallon of water

R_1 = Tier 1 unit charge in dollars per liter for BOD

R_2 = Tier 2 unit charge in dollars per liter for BOD

R_3 = Tier 3 unit charge in dollars per liter for BOD

Where:

S_2 = TSS Surcharge

Where:

$S_2 = T_4 + T_5 + T_6$

Where:

$T_4 = C_4 * V * 8.34 * R_4$

$T_5 = C_5 * V * 8.34 * R_5$

$T_6 = C_6 * V * 8.34 * R_6$

Where:

T_4 = Tier 1 TSS strength to be surcharged defined as 307-1,850 mg/l. Total TSS strength less than the Tier 1 minimum will not be charged a Tier 1 rate.

T_5 = Tier 2 of TSS strength to be surcharged defined as 1,851-3,000 mg/l. Total TSS strength less than the Tier 2 minimum will not be charged a Tier 2 rate.

T_6 = Tier 3 of TSS strength to be surcharged defined as 3,001-4,000 mg/l. Total TSS strength less than the Tier 3 minimum will not be charged a Tier 3 rate.

C_4 = Lessor of $(TSS - L_4)$ and $(L_5 - L_4)$

$C_5 = \text{Lessor of } (TSS - L_5) \text{ and } (L_6 - L_5)$

$C_6 = \text{Lessor of } (TSS - L_6) \text{ and } (L_7 - L_6)$

TSS = Total Suspended Solids concentration measured in mg/l based on monthly grab sample

$L_4 = \text{Normal TSS Strength in mg/l defined as 307 mg/l}$

$L_5 = \text{Maximum Tier 1 TSS Strength in mg/l defined as 1,850 mg/l}$

$L_6 = \text{Maximum Tier 2 TSS Strength in mg/l defined as 3,000 mg/l}$

$L_7 = \text{Maximum Tier 3 TSS Strength in mg/l defined as 4,000 mg/l}$

$V = \text{Total Sewage Flow in millions of gallons during the billing period}$

8.34 = Pounds per gallon of water

$R_4 = \text{Tier 1 unit charge in dollars per liter for TSS}$

$R_5 = \text{Tier 2 unit charge in dollars per liter for TSS}$

$R_6 = \text{Tier 3 unit charge in dollars per liter for TSS}$

Where:

$S_3 = \text{TP Surcharge}$

Where:

$S_3 = T_7 + T_8 + T_9$

Where:

$T_7 = C_7 * V * 8.34 * R_7$

$T_8 = C_8 * V * 8.34 * R_8$

$T_9 = C_9 * V * 8.34 * R_9$

Where:

$T_7 = \text{Tier 1 TP strength to be surcharged defined as 6-20 mg/l. Total TP strength less than the Tier 1 minimum will not be charged a Tier 1 rate.}$

$T_8 = \text{Tier 2 of TP strength to be surcharged defined as 21-35 mg/l. Total TP strength less than the Tier 2 minimum will not be charged a Tier 2 rate.}$

$T_9 = \text{Tier 3 of TP strength to be surcharged defined as 36-750 mg/l. Total TP strength less than the Tier 3 minimum will not be charged a Tier 3 rate.}$

$C_7 = \text{Lessor of } (TP - L_8) \text{ and } (L_9 - L_8)$

$C_8 = \text{Lessor of } (TP - L_9) \text{ and } (L_{10} - L_9)$

$C_9 = \text{Lessor of } (TP - L_{10}) \text{ and } (L_{11} - L_{10})$

TP = Total Phosphorus concentration measured in mg/l based on monthly grab sample

$L_8 = \text{Normal TP Strength in mg/l defined as 6 mg/l}$

$L_9 = \text{Maximum Tier 1 TP Strength in mg/l defined as 20 mg/l}$

$L_{10} = \text{Maximum Tier 2 TP Strength in mg/l defined as 35 mg/l}$

$L_{11} = \text{Maximum Tier 3 TP Strength in mg/l defined as 750 mg/l}$

V = Total Sewage Flow in millions of gallons during the billing period

8.34 = Pounds per gallon of water

$R_7 = \text{Tier 1 unit charge in dollars per liter for TP}$

$R_8 = \text{Tier 2 unit charge in dollars per liter for TP}$

$R_9 = \text{Tier 3 unit charge in dollars per liter for TP}$

Where:

$S_4 = \text{TKN Surcharge}$

Where:

$S_4 = T_{10} + T_{11} + T_{12}$

Where:

$T_{10} = C_{10} * V * 8.34 * R_{10}$

$T_{11} = C_{11} * V * 8.34 * R_{11}$

$T_{12} = C_{12} * V * 8.34 * R_{12}$

Where:

$T_{10} = \text{Tier 1 TKN strength to be surcharged defined as 36-80 mg/l. Total TKN strength less than the Tier 1 minimum will not be charged a Tier 1 rate.}$

$T_{11} = \text{Tier 2 of TKN strength to be surcharged defined as 81-130 mg/l. Total TKN strength less than the Tier 2 minimum will not be charged a Tier 2 rate.}$

$T_{12} = \text{Tier 3 of TKN strength to be surcharged defined as 131-1,250 mg/l. Total TKN strength less than the Tier 3 minimum will not be charged a Tier 3 rate.}$

C_{10} = Lessor of $(TKN - L_{12})$ and $(L_{13} - L_{12})$

C_{11} = Lessor of $(TKN - L_{13})$ and $(L_{14} - L_{13})$

C_{12} = Lessor of $(TKN - L_{14})$ and $(L_{15} - L_{14})$

TKN = Total Kjeldahl Nitrogen concentration measured in mg/l based on monthly grab sample

L_{12} = Normal TKN Strength in mg/l defined as 35 mg/l

L_{13} = Maximum Tier 1 TKN Strength in mg/l defined as 80 mg/l

L_{14} = Maximum Tier 2 TKN Strength in mg/l defined as 130 mg/l

L_{15} = Maximum Tier 3 TKN Strength in mg/l defined as 1,250 mg/l

V = Total Sewage Flow in millions of gallons during the billing period

8.34 = Pounds per gallon of water

R_{10} = Tier 1 unit charge in dollars per liter for TKN

R_{11} = Tier 2 unit charge in dollars per liter for TKN

R_{12} = Tier 3 unit charge in dollars per liter for TKN

Exhibit F

WMARSS Owned Real Property

HEWITT TEXAS

COUNCIL AGENDA ITEM FORM

MEETING DATE: June 3, 2019

AGENDA ITEM #: 3

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Consider approval of minutes of the Special Called Meeting of May 13, 2019 and Special Called Workshop Meeting of May 22, 2019.

STAFF RECOMMENDATION/ITEM SUMMARY:

Attached are draft copies of the meeting minutes. Please review and advise if any corrections are needed.

SUGGESTED MOTION:

"I move approval of the minutes as presented but allow for corrections."

ATTACHMENTS:

Draft minutes

HEWITT TEXAS

**MINUTES OF A CITY COUNCIL
SPECIAL CALLED MEETING
HEWITT CITY HALL – 200 PATRIOT COURT
May 13, 2019 – 7:00 PM**

Members present: Mayor Ed Passalugo (presiding), Mayor Pro Tem Steve Fortenberry, Council Members, Wilbert “Walky” Wachtendorf, Bill Fuller, Travis Bailey, and Erica Bruce

Members absent: James Vidrine

Staff present: City Manager Bo Thomas, Police Chief Jim Devlin, Assistant Police Chief Tuck Saunders, Fire Chief Lance Bracco, Community Development Director Tracy Lankford, Finance Director Lee Garcia, Library Director Waynette Ditto, Managing Director Katie Allgood, Utilities Director Kevin Reinke, and City Secretary Lydia Lopez

REGULAR MEETING – 7:00 PM

1. **CALL TO ORDER.** Mayor Ed Passalugo called the meeting to order at 7:00 PM.
2. **PLEDGE OF ALLEGIANCE TO THE U.S. FLAG.** Mayor Ed Passalugo asked Council Member Travis Bailey to lead the Pledge of Allegiance.
3. **SPECIAL PROMOTIONAL PRESENTATION BY HEWITT POLICE DEPARTMENT.** Police Chief Jim Devlin announced the promotion of Sergeant Kim Henderson. Mayor Ed Passalugo administered a ceremonial oath of office.
4. **PRESENTATION OF REPORT FROM CITY ENGINEER MILES WHITNEY**
 - Update on pending utility projects.
 - Update on pending street projects.
 - Update on pending drainage projects.
5. **BRIEFING AND DISCUSSION CONCERNING UPCOMING EVENTS:**
 - Elected Officials Orientation – May 22, 2019, 10:30 a.m. – 1:30 pm, Council Chambers
 - Household Hazardous Waste Day – June 1, 2019, 7 am – 1 pm, 501 Schroeder Drive

6. **HEAR VISITORS ON MATTERS PERTAINING TO CITY BUSINESS.** *Under the Texas Open Meetings Act, the Council is prohibited from discussing, responding, or acting on any comments or items that have not been properly posted on the agenda.*
Beth Oakley, 708 Angel Fire Drive, stated that there was no reason to terminate the previous City Attorney Charlie Buenger and requested the resignation of City Attorney Mike Dixon. **No one else appeared.**

7. **CONSIDER APPROVAL OF MINUTES OF THE CITY COUNCIL WORKSHOP/REGULAR MEETING OF APRIL 15, 2019.**
MOTION: Council Member Bill Fuller moved to approve the minutes as presented but allow for corrections.
SECOND: Council Member Travis Bailey
AYES: Fuller, Bailey, Wachtendorf, Fortenberry, Bruce, Passalugo
NAYES: None
ABSENT: Vidrine
MOTION PASSED.

8. **CONSIDER AWARD OF BID FOR 2019 – VARIOUS STREET IMPROVEMENTS; SLURRY SEAL TO VIKING CONSTRUCTION, INC., IN THE AMOUNT OF \$247,798.15.**
MOTION: Council Member Wilbert “Walky” Wachtendorf moved to approve award of bid for 2019 –Various Street Improvements to Viking Construction, Inc., in the amount of \$247,798.15.
SECOND: Council Member Travis Bailey
AYES: Fuller, Bailey, Wachtendorf, Fortenberry, Bruce, Passalugo
NAYES: None
ABSENT: Vidrine
MOTION PASSED.

9. **PUBLIC HEARING AND ACTION ON ORDINANCE NO. 2019-07;REZONING OF A 5.251 ACRE TRACT OF LAND, LOCATED AT 1725 W. SPRING VALLEY RD., HEWITT, MCLENNAN COUNTY, TEXAS, ALSO KNOWN AS SPROWLES J TRACT 1 FROM R-1 (SINGLE-FAMILY DISTRICT) TO C-2 (GENERAL COMMERCIAL DISTRICT).**
Mayor Ed Passalugo opened the public hearing at 7:15 PM and called for those wishing to speak in favor and for those wishing to speak against. Keith and Marie Billings, 1731 Spring Valley Road, inquired what the property owners were going to construct on the property. Tracy Lankford advised that plans have not been submitted. Planning and Zoning Commission Chairman Charlie Turner referred the Billings to property owner Mr. Chuck Walker. Applicant was not present.
MOTION: Mayor Pro Tem Steve Fortenberry moved to table this item to the next meeting.
SECOND: Council Member Bill Fuller
AYES: Fuller, Fortenberry, Bruce, Passalugo
NAYES: Wachtendorf, Bailey
ABSENT: Vidrine
MOTION PASSED.

10. **CONSIDER AN ORDINANCE NO. 2019-08; GRANTING ALLIED WASTE SYSTEMS, INC. AN EXCLUSIVE FRANCHISE FOR RESIDENTIAL SOLID WASTE COLLECTION AND DISPOSAL, COMMERCIAL SOLID WASTE COLLECTION AND DISPOSAL, INDUSTRIAL SOLID WASTE COLLECTION AND DISPOSAL, AND RESIDENTIAL COLLECTION OF RECYCLABLE MATERIALS WITHIN THE CORPORATE LIMITS OF THE CITY OF HEWITT, TEXAS; ESTABLISHING THE TERM OF THE FRANCHISE; REQUIRING THAT ALL OCCUPIED RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL UNITS IN THE CITY BE SERVED WITH SOLID WASTE COLLECTION AND DISPOSAL SERVICES AND SUBSCRIBE THERETO; PROHIBITING ANY PERSON OTHER THAN THE FRANCHISEE FROM CONDUCTING OR ATTEMPTING TO CONDUCT THE BUSINESS OF SOLID WASTE COLLECTION AND DISPOSAL SERVICES WITHIN THE CITY OF HEWITT; APPROVING THE MUNICIPAL SOLID WASTE AGREEMENT BETWEEN THE CITY AND ALLIED WASTE SYSTEMS, INC. AND INCORPORATING THE SAME HEREIN; REPEALING AND REPLACING CHAPTER 62 – SOLID WASTE, ARTICLE II – COLLECTION AND DISPOSAL OF THE CODE OF ORDINANCES CONFLICTING PROVISIONS IN CHAPTER 62 OF THE CITY OF HEWITT CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

MOTION: Council Member Wilbert “Walky” Wachtendorf moved to approve Ordinance No. 2019-08 amending Chapter 62, Article II – Collection and Disposal of the Code of Ordinances and approving the contract agreement between the City of Hewitt and Allied Waste Systems, Inc., for a term of five years, effective July 1, 2019-June 30, 2024.

SECOND: Mayor Pro Tem Steve Fortenberry

AYES: Fuller, Bailey, Wachtendorf, Fortenberry, Bruce, Passalugo

NAYES: None

ABSENT: Vidrine

MOTION PASSED.

11. **CONSIDERATION AND ACTION ON A RESOLUTION NO. 2019-04; AMENDING THE FY 2018-2019 MASTER FEE SCHEDULE TO INCLUDE THE UPDATED SOLID WASTE RATES PER THE CONTRACT AGREEMENT WITH REPUBLIC SERVICES.** City Manager Bo Thomas presented.

MOTION: Council Member Wilbert “Walky” Wachtendorf moved to amend the FY 2018-2019 Master Fee Schedule to include the new solid waste rates per the contract agreement with Republic Services.

SECOND: Council Member Travis Bailey

AYES: Fuller, Bailey, Wachtendorf, Fortenberry, Bruce, Passalugo

NAYES: None

ABSENT: Vidrine

MOTION PASSED.

12. **CONSIDER AN ORDINANCE NO. 2019-09;AMENDING CHAPTER 78, UTILITIES, ARTICLE II – WATER, DIVISION 1 – GENERALLY, SECTION 78-29 – NUMBER OF WATER METERS PER OCCUPANCY OF THE CODE OF ORDINANCES OF THE CITY OF HEWITT; PROVIDING FOR PROCEDURES RELATED TO THE SHARING OF WATER METERS; PROVIDING FOR PROCEDURES RELATED TO BILLING FOR WATER; PARTIALLY REPEALING SECTION 78-29 (B) COMMERCIAL AND INDUSTRIAL CUSTOMERS; ESTABLISHING SECTION 78-29 (D) MASTER METERED HIGH-DENSITY MULTIFAMILY; ESTABLISHING SECTION 78-29 (E) HIGH-DENSITY MULTIFAMILY DEVELOPMENTS; ESTABLISHING SECTION 78-29 (F) MASTER METER; PROVIDING FOR SEVERABILITY, REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING AN EFFECTIVE DATE.** City Manager Bo Thomas noted that these two ordinance were drafted to establish the rate classification for multi-family developments. Managing Director Katie Allgood noted that the effective date is October 1, 2019.

MOTION: Council Member Bill Fuller moved to approve Ordinance No. 2019-09.

SECOND: Council Member Travis Bailey

AYES: Fuller, Bailey, Wachtendorf, Fortenberry, Bruce, Passalugo

NAYES: None

ABSENT: Vidrine

MOTION PASSED.

13. **CONSIDER AN ORDINANCE NO. 2019-10;AMENDING CHAPTER 78, UTILITIES, ARTICLE III – WASTEWATER SYSTEM, DIVISION 1 – GENERALLY, SECTION 78-98 – NUMBER OF SEWER CONNECTIONS PER OCCUPANCY OF THE CODE OF ORDINANCES OF THE CITY OF HEWITT; PROVIDING FOR PROCEDURES RELATED TO THE SHARING OF SEWER CONNECTIONS; PROVIDING FOR PROCEDURES RELATED TO BILLING FOR WASTEWATER; PARTIALLY REPEALING SECTION 78-98 (B) COMMERCIAL AND INDUSTRIAL CUSTOMERS; ESTABLISHING SECTION 78-98 (D) HIGH-DENSITY MULTIFAMILY; PROVIDING FOR SEVERABILITY, REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING AN EFFECTIVE DATE.**

MOTION: Council Member Bill Fuller move to approved Ordinance No. 2019-10.

SECOND: Council Member Travis Bailey

AYES: Fuller, Bailey, Wachtendorf, Fortenberry, Bruce, Passalugo

NAYES: None

ABSENT: Vidrine

MOTION PASSED.

14. **ELECTION PROCESS**

- a. Canvass Election Results – City Secretary Lydia Lopez reviewed the election returns as certified by the McLennan County Elections Administrator Kathy Van Wolfe. Totals votes cast (Early and Election Day) were:

CANDIDATE	NUMBER OF VOTES
Council Member – Ward 1	
Travis Bailey	263
Charles D. “Charlie” Turner	406
Council Member – Ward 2	
Matthew Mevis	497
Council Member – Ward 3	
A.C. “Tony” Martinez	153
Erica Bruce	556
Council Member – At-Large	
Adam Miles	73
Betty Orton	184
Michael S. Bancale	245
Mike Field	197
Kurt Krakowian	29

City Secretary noted the following received the majority of the votes cast to be elected:

Council Member Ward 1 - Charles D. “Charlie” Turner, Council Member Ward 2 – Matthew Mevis, Council Member Ward 3 – Erica Bruce

No candidate received the majority vote for the Council Member – At-Large; therefore the Charter requires a runoff election be held of the top two candidates receiving the highest number of votes – Michael S. Bancale and Mike Field.

- b. CONSIDER RESOLUTION NO. 2019-05; CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE JOINT GENERAL ELECTION MAY 4, 2019, AND OTHER MATTERS RELATED THERETO.**

MOTION: Council Member Bill Fuller

SECOND: Council Member Wilbert “Walky” Wachtendorf

AYES: Fuller, Bailey, Wachtendorf, Fortenberry, Bruce, Passalugo

NAYES: None

ABSENT: Vidrine

MOTION PASSED.

- c. CONSIDER RESOLUTION NO. 2019-06; ORDERING A RUN-OFF ELECTION TO BE HELD ON JUNE 8, 2019, AND OTHER MATTERS RELATED THERETO.**

MOTION: Council Member Bill Fuller

SECOND: Council Member Travis Bailey

AYES: Fuller, Bailey, Wachtendorf, Fortenberry, Bruce, Passalugo

NAYES: None

ABSENT: Vidrine

MOTION PASSED.

- d. **ADMINISTERING THE OATH OF OFFICE TO NEWLY ELECTED COUNCIL MEMBERS.** City Secretary administered the oath to the following officials: Charlie Turner, Matthew Mevis, and Erica Bruce.
- e. **CERTIFICATES OF ELECTION WERE PRESENTED TO THE NEWLY ELECTED OFFICIALS.**
- f. **SPECIAL PRESENTATION TO OUTGOING COUNCIL MEMBERS.** City Manager Bo Thomas presented awards to outgoing Council Members Ed Passalugo and Travis Bailey. Council Member James Vidrine was not present for the meeting.

City Manager Bo Thomas advised that the Charter requires the selection of a Mayor and Mayor Pro Tem after the election.

Mayor Pro Tem Steve Fortenberry recessed the regular session to convene the following Executive Session at 7:42 PM.

EXECUTIVE SESSION

The City Council shall convene in executive session pursuant to §551.074 of the Texas Government Code to deliberate the evaluation and appointment of officers (Councilpersons) to serve in the positions of MAYOR and MAYOR PRO TEM.

Mayor Pro Tem Steve Fortenberry reconvened the regular meeting at 8:00 PM.

g. SELECTION OF MAYOR AND MAYOR PRO TEM

1. Discussion and action on the selection of Mayor.

MOTION: Mayor Pro Tem Steve Fortenberry nominated Charles Turner as Mayor of the City of Hewitt.

SECOND: Council Member Erica Bruce

AYES: Fuller, Mevis, Wachtendorf, Fortenberry, Bruce

NAYES: None

ABSENT: None

ABSTAINED: Turner

MOTION PASSED.

Mayor Pro Tem Steve Fortenberry relinquished the Chair to newly appointed Mayor Charlie Turner.

2. Discussion and action on the selection of Mayor Pro Tem

MOTION: Mayor Charlie Turner nominated Wilbert “Walky” Wachtendorf as Mayor Pro Tem.

SECOND: Council Member Matthew Mevis

AYES: Fuller, Mevis, Wachtendorf, Fortenberry, Bruce, Turner

NAYES: None

ABSENT: None

MOTION PASSED.

14. ADJOURN.

MOTION: Council Member Bill Fuller moved to adjourn the meeting at 8:04 PM.

SECOND: Council Member Steve Fortenberry

AYES: Fuller, Mevis, Wachtendorf, Fortenberry, Bruce, Turner

NAYES: None

ABSENT: None

MOTION PASSED.

Lydia Lopez, City Secretary

Charles D. Turner, Mayor

HEWITT TEXAS

**MINUTES OF A CITY COUNCIL
SPECIAL CALLED WORKSHOP MEETING
HEWITT CITY HALL – 200 PATRIOT COURT
May 22, 2019 – 10:30 AM**

Members present: Mayor Charlie Turner (presiding), Council Members Bill Fuller, Steve Fortenberry, Matthew Mevis, and Erica Bruce

Council candidates: Michael S. Bancale and Mike Field

Members absent: Wilbert “Walky” Wachtendorf

Staff present: City Manager Bo Thomas, Police Chief Jim Devlin, Fire Chief Lance Bracco, Community Development Director Tracy Lankford, Finance Director Lee Garcia, Library Director Waynette Ditto, Managing Director Katie Allgood, Utilities Director Kevin Reinke, and City Secretary Lydia Lopez

WORKSHOP MEETING – 7:00 PM

1. **CALL TO ORDER.** Mayor Charlie Turner called the meeting to order at 10:30 AM.
2. **ELECTED OFFICIALS ORIENTATION** – City Manager Bo Thomas presented a comprehensive orientation for all Council Members to include Municipal Government 101, Charter highlights, fast facts, and services provided.

Mayor Charlie Turner called for a brief recess at 11:40 AM to allow time for lunch.

Mayor Turner reconvened at 12:03 PM.

Department Heads each presented on their departments.

3. **ADJOURN.** There being no further business, the meeting was adjourned at 2:03 PM.

Lydia Lopez, City Secretary

Charles D. Turner, Mayor

HEWITT TEXAS

AGENDA ITEM #4 – HEARING OF VISITORS

PROCEDURES FOR CITIZEN PARTICIPATION AT MEETINGS

1. Citizens are encouraged to discuss matters of concern with the staff and individual council members prior to placing items on the agenda. This will allow the matter to be properly investigated before it is presented to the entire council and will often expedite a resolution.

NO CITIZEN OR STAFF MEMBER MAY SPEAK OR OTHERWISE INTERRUPT ANY MEETING UNTIL RECOGNIZED BY THE PRESIDING OFFICER.

2. To maintain decorum at public hearings, the mayor will ask citizens in attendance if they wish to speak for or against the item on the agenda. If so, they will be given an opportunity to speak at the proper time and when recognized by the chair. If more than five citizens wish to address the council on any single agenda item, those citizens are advised to select a spokesperson to present their case.
3. Only under the agenda item “Hear Visitors” are citizens permitted to speak regarding matters that pertain to city business or address an item on the agenda. **The council is prohibited by law from discussing or acting on any item that has not been posted on the agenda.**
4. Individual citizens that discuss items not listed on the agenda shall be limited to **five minutes**. If five or more citizens wish to discuss a single item or topic that is not listed on the agenda, then the total presentation will be limited to a maximum of twenty-five minutes. City council members shall **not** enter into discussion on any subject that has not been properly placed on the agenda; however, council members may ask questions for clarification purposes.
5. As a general rule, citizens may not participate or address the council or staff during the workshop session.

Under the Texas Open Meetings Act, the Council is prohibited from discussing, responding, or acting on any comments or items that have not been properly posted on the agenda.

HEWITT TEXAS

COUNCIL AGENDA ITEM FORM

MEETING DATE: June 3, 2019

AGENDA ITEM #: 5

SUBMITTED BY: Tracy Lankford, Community Development Director

ITEM DESCRIPTION:

Public hearing and action on an **Ordinance No. 2019-07**; rezoning of a 5.251 acre tract of land, located at 1725 W. Spring Valley Rd, Hewitt, McLennan County, Texas, also known as Sprowles J tract 1 from R-1 (Single-Family District) to C-2 (General Commercial District).

STAFF RECOMMENDATION/ITEM SUMMARY:

Mr. Chuck Walker submitted a request to rezone property located at the 1725 W. Spring Valley Rd. This is a tract of land located about 800 feet west of S. Hewitt Dr. Mr. Walker is requesting the rezoning change from R-1 (Single-Family District) to C-2 (General Commercial District). The Planning and Zoning Commission met on Tuesday, May 7, 2019 to consider the request. After a public hearing and deliberation, the P&Z Commission recommended to approve the request with a vote of 4 to 0. A map of the property and copy of the minutes is included in the backup material.

SUGGESTED MOTION:

NOTE: Council must move to remove this item from the table to proceed with vote on the Ordinance to rezone.

I move to approve Ordinance No. 2019-07; rezoning of a 5.251 acre tract of land, located at 1725 W. Spring Valley Rd., from R-1 (Single-Family District) to C-2 (General Commercial District).

ATTACHMENTS:

P&Z Draft Minutes and supporting documentation
Draft ordinance

HEWITT TEXAS

MINUTES OF THE PLANNING AND ZONING COMMISSION

May 7th, 2019 – 6:00PM

Members Present: Chairman Charlie Turner, John Baker, Bobby Wolske, Jonathan Dulus

Members Absent: Jim Pless, Walt Peterson, Michael Hix

Staff Present: Tracy Lankford, Community Development Director
Brittney Cantu, Zoning Secretary

1. **Call of Planning & Zoning Commission Meeting to Order.** *Chairman Charlie Turner Called the meeting to order at 6:00PM.*
2. **Consider Approval for Minutes of for the April 2, 2019 Planning and Zoning Commission regular meeting.** *A motion was made by John Baker, seconded by Bobby Wolske, to approve the minutes as submitted but allow for corrections. All four in favor, motion passed.*
3. **Public Hearing: Consider a request of Chuck Walker to change the zoning of Sprowles J A-817, Tract 1, located at 1725 W Spring Valley Rd, from R-1 to C-2.** *Speaking in favor: Chuck Walker, potential property owner of requested project, residing at 1240 Estes Road, Lorena, Texas. Mr. Walker is in the process of buying the land at 1725 W. Spring Valley so that he can build storage units. The existing structure is an old church in which he plans to remodel for a possible office area. Mr. Walker feels like adding storage units on this property will be in line with the growth and development of the City of Hewitt. Also speaking in favor: Kyle Lands, residing at 254 Warren Road, Lorena, Texas. Mr. Lands owns acreage at 1711 W Spring Valley and agrees that this project request will help the City of Hewitt to grow. Chairman Charlie turner asked if anyone is wanting to speak against this project request. No one came forward. Public hearing ended at 6:05PM.*
4. **Discussion and possible action: Consider a request of Chuck Walker to change the zoning of Sprowles J A-817, Tract 1, located at 1725 W Spring Valley Rd, from R-1 to C-2.** *Bobby Wolske asked the question of where exactly this property was, and Mr.*

Walker answered where it was, and that there was an old church on the property. Mr. Wolske also asked in a flood plain, to which Mr. Walker stated that it does not show to be, but he is aware that there are issues when there are heavy rains. Chairman Charlie Turner asked Tracy Lankford, Director of Community Development, for the City's opinion and recommendation of the project. Mr. Lankford stated that this project compliances with the land use map. There may be issues that arise with drainage or with water lines, but the staff recommends approval of this request. John Baker made a motion to recommend approval, seconded by Jonathan Dulus. All four in favor, motion carries. Recommendation will go before City Council on May 13, 2019.

5. **Adjourn.** Prior to adjourning the meeting, Chairman Charlie Turner asked if he could read a statement he prepared. Mr. Turner stated he is stepping down from his position as Chairman and member of the Planning and Zoning Commission, as the May 4, 2019 election results declared him the new Councilman for the City of Hewitt in Ward 1. After reading this statement, John Baker motioned, seconded by Bobby Wolske to adorn the meeting at 6:10PM. All four in favor, motion passed.

Chairman

Date Approved


Brittney Cantu, Zoning Secretary

ORDINANCE NO. 2019-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS AMENDING ORDINANCE NO. 11-15-99 AND ALL AMENDMENTS THERETO, KNOWN AS THE ZONING ORDINANCE OF THE CITY OF HEWITT, TEXAS, CHANGING THE ZONING CLASSIFICATIONS OF THE HEREIN DESCRIBED PROPERTY FROM R-1 (SINGLE-FAMILY DISTRICT) TO C-2 (GENERAL COMMERCIAL DISTRICT) PROVIDING FOR PENALTY; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in accordance with the Code of Ordinances of the City of Hewitt, a request was submitted by Chuck Walker to rezone a 5.251 acre tract of land, legally known as the J Sprowles Tract 1 also known as 1725 W. Spring Valley Rd, Hewitt, McLennan County, Texas, from **R-1 (Single-Family District) to C-2 (General Commercial District)**.

WHEREAS, public notice was given and property owners within 200' were notified of the rezoning request as required by state law, and

WHEREAS, a public hearing in relation thereto at which parties in interest and citizens had an opportunity to be heard was held by the City Council of the City of Hewitt on May 13, 2019, after due notice in the manner provided by law; and

WHEREAS, a public hearing of the Planning and Zoning Commission at which parties in interest and citizens had an opportunity to be heard was held on Tuesday, May 7, 2019, after due notice in the manner provided by law; and

WHEREAS, the said Commission has made a report to the City Council of the City of Hewitt, Texas, recommending approval of this rezoning request by a unanimous vote; and

WHEREAS, the City Council of the City of Hewitt, Texas deems that this rezoning is in accordance with the Comprehensive Land Use Plan and is in the public interest;

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

SECTION ONE. All that certain tract or parcel of land in McLennan County, Texas, being 5.251 acre tract of land, legally known as the J Sprowles Tract 1 also known as 1725 W. Spring Valley Rd, Hewitt, McLennan County, Texas, from **R-1 (Single-Family District) to C-2 (General Commercial District)**.

SECTION TWO. A proposed map of area is shown in Exhibit "A".

SECTION THREE. All ordinances, statutes, restrictions and regulations applicable to this property shall be complied with as well as all zoning restrictions and regulations that are applicable to this property.

SECTION FOUR. That all provisions of the ordinances of the City of Hewitt in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Hewitt not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION FIVE. Should any section, paragraph, sentence, clause, or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

SECTION SIX. Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed Two Thousand and No/100 Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION SEVEN. The caption of this Ordinance shall be published within ten (10) days of its passage in a newspaper of general circulation in the City of Hewitt.

SECTION EIGHT. This Ordinance shall become effective ten (10) days after the date of its passage and upon its publication as required by law.

PASSED AND APPROVED this the 13th day of May, 2019, at a Regular Meeting of the City Council of the City of Hewitt, Texas.

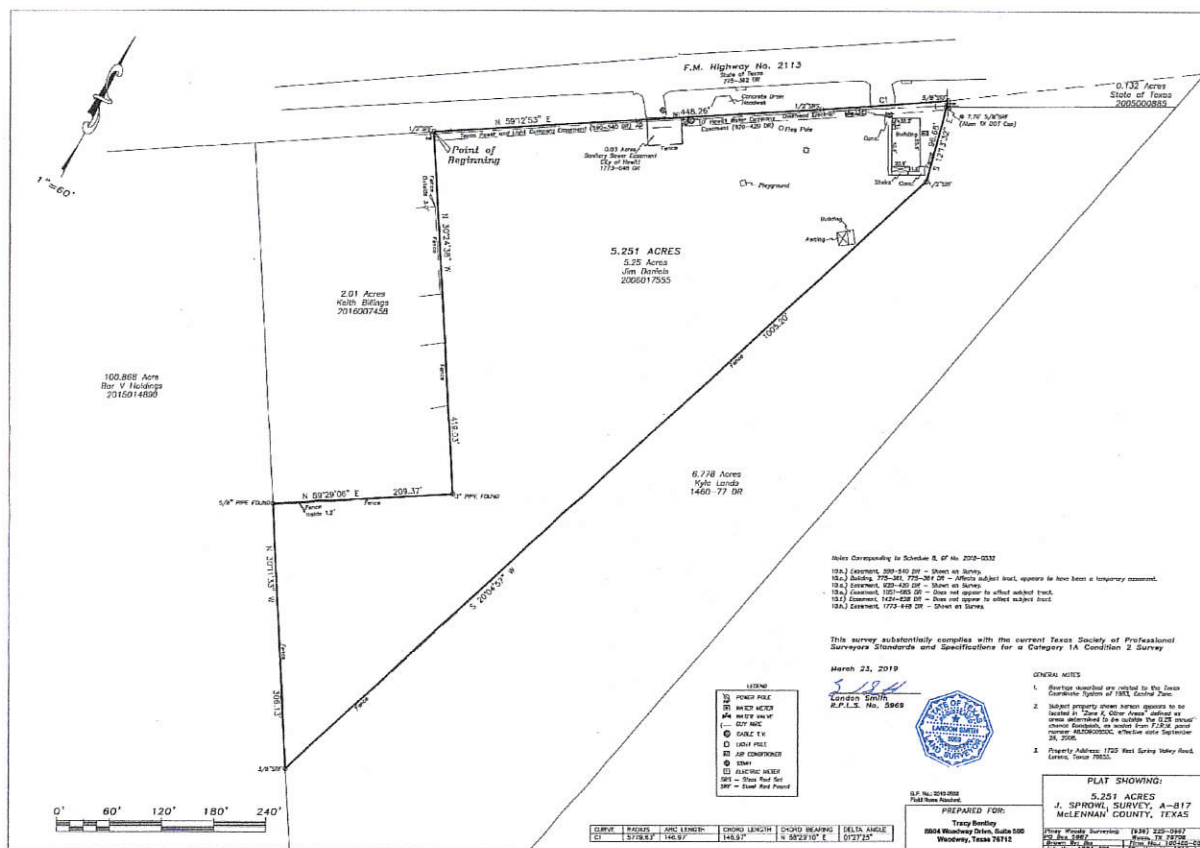
CITY OF HEWITT

BY: _____
Ed Passalugo, Mayor

ATTEST:

Lydia Lopez, City Secretary

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COUNCIL AGENDA ITEM FORM

MEETING DATE: June 3, 2019

AGENDA ITEM #: 6

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Consider reappointments to the Planning and Zoning Commission.

STAFF RECOMMENDATION/ITEM SUMMARY:

Jim Pless, Bobby Wolske, and Walter H. Peterson have terms that expire this month on the Planning and Zoning Commission. All are eligible for reappointment and have agreed to serve another two year term. These members are in good standing and staff recommends approval of this item.

SUGGESTED MOTION:

I move to approve the reappointment of Planning and Zoning Commission members Jim Pless, Bobby Wolske, and Walter H. Peterson.

ATTACHMENTS:

Council, Boards, and Commissions Roster

CITY OF HEWITT: COUNCIL, BOARDS, AND COMMISSIONS

City Hall 666-6171 (Fax 666-6014); Community Services 666-2447; Utility Billing 666-3151 (after hrs emergency 666-6272); Police Adm. 666-1661; Drug Tips 666-3333; Animal Control 666-6272; Library 666-2442; Park Reservations 666-6173; Municipal Court 666-1208; Chamber of Commerce 666-1200. City of Hewitt web site: www.cityofhewitt.com; Email: citysecretary@cityofhewitt.com

City Council 2 Yr Term - May	Board of Adjustment 2 Yr Term - April	Planning & Zoning Commission 3 Yr Term - June	Parks & Beautification Board 2 Yr Term - December	Library Board of Directors 2 Yr Term - December
1st & 3rd Mon 7 pm	3rd Thurs 6 pm	1st Tues. 6 pm	3rd Wed. 6 pm	Quarterly as needed
Mayor Charlie Turner Ward 1 (05-2021) 209 Laredo Dr. 666-0087	Chairman (04-2020) Jim Winton 1136 Heatherwood 857-9436	(06-2019) Jim Pless 803 Attaway 855-7762	(12-2020) Jerry Snider 108 Brenda Drive 307-0613	(12-2020) Eric Ames 249 Fieldcrest Dr. 710-1576
Mayor Pro Tem Wilbert (Walky) Wachtendorf Ward 1 (05-2020) 328 Travis Lane 666-3759	(04-2020) Bradley T. Turner 425 W. Chapman 723-4912	(06-2019) Bobby Wolske 109 Devonshire 366-4743	(12-2019) Tom Hernandez 1321 Darbyton Drive (563) 271-8536	(12-2019) Gayle H. Shipp 704 Cheyenne Trail 495-1044
Bill Fuller Ward 2 (05-2020) 218 Chelsea/PO Box 568 666-3304	(04-2019) Douglas Bergen 264 Earle Rd. 666-0855	(06-2019) Walter H. Peterson 500 Moss Hill Rd. 757-5128	(12-2019) VACANCY	(12-2020) Karen Copeland 616 Crestwood Dr. 717-4906
Matthew Mevis Ward 2 (05-2021) 167 Topaz Circle 292-8727	(04-2019) Charles Howard 155 Ellis Farm Rd. 732-4746	(06-2020) Jonathan Denton Dulus 332 Bowie Ln. 855-4013	(12-2019) Ann E. Schiltz 1220 Dendron Dr. 666-4291	Secretary (12-2020) Lydia Dashner 520 Angel Fire Dr. 666-9623
Erica Bruce Ward 3 (05-2021) 717 Fieldstone 655-4313	(04-2019) R. Don Vardeman 432 S First St. 227-4495	(06-2020) VACANCY	(12-2020) VACANCY	President (12-2020) Beth Oakley 708 Angel Fire Drive 644-3594
Steve Fortenberry Ward 3 (05-2020) 701 Oakmont Drive 709-0030	Alternate (04-2020) Scott Hedges 613 Willow Creek Dr. 776-9550 x3246	(06-2020) Michael Lee Hix 336 Bowie Lane 723-5071	(12-2020) Veronica Molina 1201 Radisson (434) 531-2014	(12-2019) Justin Scott Anderson 726 Park Meadows 978-0774
VACANCY At Large (05-2021)	Alternate (04-2019) VACANCY	(06-2020) John J. Baker 317 Bonham Drive 235-0464	(12-2020) VACANCY	Vice President (12-2019) Sally Goldman 132 Texas 666-2436

Updated: 05/23/2019



COUNCIL AGENDA ITEM FORM

MEETING DATE: June 3, 2019

AGENDA ITEM #: 7

SUBMITTED BY: Bo Thomas, City Manager

ITEM DESCRIPTION:

Consider reappointment of Katie Allgood as Emergency Management Coordinator (EMC) and Tracy Lankford as Assistant Emergency Management Coordinator.

STAFF RECOMMENDATION/ITEM SUMMARY:

Texas Government Code requires the city to appoint an Emergency Management Coordinator (EMC) to head the City's emergency management program. By Council action on September 19, 2016, the above appointments were ratified. Approval of these reappointments would satisfy this requirement and be effective upon Council approval of this agenda item.

It is also important to update the presiding officer information with the current Mayor.

SUGGESTED MOTION:

I move approval of the reappointment of Katie Allgood as Emergency Management Coordinator (EMC) and Tracy Lankford as Assistant Emergency Management Coordinator.

ATTACHMENTS:

Appointment notification form

EMERGENCY MANAGEMENT DIRECTOR/COORDINATOR NOTIFICATION

Section 418.101 of the Texas Government Code states: "The presiding officer of the governing body of each political subdivision will notify the Division of Emergency Management of the manner in which the political subdivision is providing or securing an emergency management program, identify the person who heads the agency responsible for the program, and furnish additional pertinent information." This form is used to make the required notification to TDEM.

The information on this form may be released to those inquiring about local emergency management programs pursuant to the Texas Open Records Act. Hence, TDEM recommends that you provide business addresses and mobile telephone numbers rather than home addresses and telephone numbers.

COUNTY:		(Required)
Jurisdiction:		(City or County Name)
Official's Title:		(Mayor/Judge)
Name:		(First & Last Name)
Mailing Address:		(The best address to receive mail)
City, State, Zip:		
Office Number:		
Cell Number:		
Fax Number:		
E-mail:		(Please include – this is a back-up for mailing)

EMERGENCY MANAGEMENT PROGRAM APPOINTMENT STATUS

- ☐ I HAVE NOT appointed an Emergency Management Coordinator and will personally direct the local emergency management program.
- ☐ I HAVE appointed/re-appointed the Emergency Management Coordinator identified below to conduct the emergency management program for this jurisdiction. The effective date of the appointment is: _____
- ☐ We share our EMC with _____ (name of jurisdiction).

*If the COUNTY Emergency Management Coordinator has been appointed to other jurisdictions within the county, the County Judge and the participating City Mayors must sign this form.
(See the third page for additional signature blocks.)*

The EMC for this jurisdiction is (please select one):

- ☐ Paid, Full Time, EMC only
- ☐ Paid, Full Time, EMC and other job duties (Fire Chief, Fire Marshal, Police Chief, EMS Director, Etc.) (please specify other duty/duties) _____
- ☐ Paid part time, EMC only
- ☐ Paid, Part Time, EMC and other job duties (Fire Chief, Fire Marshal, Police Chief, EMS Director, Etc.) (please specify other duty/duties) _____
- ☐ Unpaid/volunteer EMC only
- ☐ Unpaid/Volunteer, EMC and other volunteer job duties (Fire Chief, Fire Marshal, Police Chief, EMS Director, Etc.) (please specify other duty/duties) _____
- ☐ Other (please describe) _____

EMERGENCY MANAGEMENT COORDINATOR		
	Coordinator	Asst Coordinator
Name:		
Mailing Address:		
City, State, Zip:		
Office Phone:		
Cell Number:		
Fax Number:		
E-mail Address:		
Emergency Operations Center Number:		

Judge's or Mayor's Signature

Date

PLEASE RETURN TO: Texas Division of Emergency Management Operations Section PO Box 4087 Austin, TX 78773-0220 Phone: (512) 424-2208 Email: soc@dps.texas.gov Click to Submit Form to SOC		
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HEWITT TEXAS

COUNCIL AGENDA ITEM FORM

MEETING DATE: June 3, 2019

AGENDA ITEM #: 8

SUBMITTED BY: Bo Thomas, City Manager

ITEM DESCRIPTION:

To ratify the emergency repair of the Crockett Lane Sewer Re-Route to Bear Contractors, Inc., in an amount of \$98,912.

STAFF RECOMMENDATION/ITEM SUMMARY:

Since the later part of April of this year, the Council has been aware of a sewer line running perpendicular to Bowie and Crockett streets in our community that homes are built over the top of that was perforated by a foundation leveling company in multiple locations. Utility crews have made, all attempts to try and restore the line but are unable to do so without tearing up back yards to homes affected by the sewer line.

Therefore, Utilities Director Kevin Reinke sought quotes to re-route the sewer in this area since this option appears to be less intrusive, more cost effective and overall a better permanent solution for the system. Based upon the nature of this emergency, we have sought quotes as opposed to sealed bids in an interest to save time. We sought four (4) quotes and received two (2) quotes with two (2) no quotes.

SUGGESTED MOTION:

I move to ratify the emergency repair for the Crockett Lane Sewer Re-Route to Bear Contractors, Inc. and authorize the City Manager to enter into all agreements and proceed accordingly.

ATTACHMENTS:

Quotes

Project Proposal List

Project: City of Hewitt; 2019 - Crockett Ln. Sewer Re-Route

General Contractors

Proposal Due DATE:

5/23/2019

COMPANY	Signed Proposal	Proposal Total
Bear Contractors, Inc.		\$98,912.00
J N B Contracting		\$105,680.00
Barnett Contracting		No bid
Holy Contracting		No bid

City of Hewitt
2019 - Crockett Ln. Sewer Re-route

Proposal ;

Item Code.	Item Description	Qty.	Unit	Price/Unit	Item Totals
1	8" ASTM D2241, SDR-26, PVC Sewer Pipe (5' to 7' Cut), including Excavation, Bedding and Compacted Gravel Backfill; Installed	60	L.F.	\$ 60 ⁰⁰	\$ 3,600 ⁰⁰
2	8" ASTM D2241, SDR-26, PVC Sewer Pipe (7' to 9' Cut), including Excavation, Bedding and Compacted Gravel Backfill; Installed	94	L.F.	\$ 63 ⁰⁰	\$ 5,922 ⁰⁰
3	8" ASTM D2241, SDR-26, PVC6 Sewer Pipe (9' to 11' Cut), including Excavation, Bedding and Compacted Gravel Backfill; Installed	408	L.F.	\$ 69 ⁰⁰	\$ 28,152 ⁰⁰
4	4' Dia. Standard Concrete Manhole, including Interior Coating, Concrete Diamond, Excavation and Compacted Gravel Backfill - (5' to 7' Depth); Installed	1	EA t.f.	\$ 7,760 ⁰⁰	\$ 7,760 ⁰⁰
5	4' Dia. Standard Concrete Manhole, including Interior Coating, Concrete Diamond, Excavation and Compacted Gravel Backfill - (9' to 11' Depth); Installed	2	EA t.f.	\$ 9,050 ⁰⁰	\$ 18,100 ⁰⁰
6	Sewer Service Reconnections; Installed	12	EA t.f.	\$ 1,090 ⁰⁰	\$ 13,080 ⁰⁰
7	Street Repair, per Detail; Complete	320	S.Y.	\$ 40 ⁰⁰	\$ 12,800 ⁰⁰
8	Trench Safety System Design and Implementation	562	L.F.	\$ 4 ⁰⁰	\$ 2,248 ⁰⁰
9	SWPPP Design and Implimentation	1	L.S.	\$ 750 ⁰⁰	\$ 750 ⁰⁰
10	Traffic Control Plan Development and Implementation	1	L.S.	\$ 1,500 ⁰⁰	\$ 1,500 ⁰⁰
11	Mobilization (Not to Exceed 10% of Total Contract)	1	L.S.	\$ 5,000 ⁰⁰	\$ 5,000 ⁰⁰

Proposal Total* = \$98,912⁰⁰

*The Proposal Total shall cover all work nessasary to accomplish and place into service the project as shown, all project incidentals shall be considered subsidiary.

Proposal Submitted By;

Bear Contractors, Inc.

Address

P.O. Box 7 West, TX 76691

Phone Number

254 826-4441

Email

olennmorrison@gmail.com

City of Hewitt

2019 - Crockett Ln. Sewer Re-route

Authorized Representative's Signature

Al Morrison, Pres

Date of Signature

5-22-19

* NOTE - We propose to start work on this project two days before the delivery of the concrete manholes for:

1. Mobilization
2. Set up by-pass equipment
3. Saw cut existing street surface as needed

Manholes can be delivered approximately seven days after the City's approval to place the order.

City of Hewitt
2019 - Crockett Ln. Sewer Re-route

Proposal ;

Item Code.	Item Description	Qty.	Unit	Price/Unit	Item Totals
1	8" ASTM D2241, SDR-26, PVC Sewer Pipe (5' to 7' Cut), including Excavation, Bedding and Compacted Gravel Backfill; Installed	60	L.F.	\$ 60	\$ 3,600
2	8" ASTM D2241, SDR-26, PVC Sewer Pipe (7' to 9' Cut), including Excavation, Bedding and Compacted Gravel Backfill; Installed	94	L.F.	\$ 65	\$ 6,110
3	8" ASTM D2241, SDR-26, PVC6 Sewer Pipe (9' to 11' Cut), including Excavation, Bedding and Compacted Gravel Backfill; Installed	408	L.F.	\$ 70	\$ 28,560
4	4' Dia. Standard Concrete Manhole, including Interior Coating, Concrete Diamond, Excavation and Compacted Gravel Backfill - (5' to 7' Depth); Installed	1	L.F.	\$ 7,000	\$ 7,000
5	4' Dia. Standard Concrete Manhole, including Interior Coating, Concrete Diamond, Excavation and Compacted Gravel Backfill - (9' to 11' Depth); Installed	2	L.F.	\$ 9,000	\$ 18,000
6	Sewer Service Reconnections; Installed	12	L.F.	\$ 850	\$ 10,200
7	Street Repair, per Detail; Complete	320	S.Y.	\$ 70	\$ 22,400
8	Trench Safety System Design and Implementation	562	L.F.	\$ 5	\$ 2,810
9	SWPPP Design and Implimentation	1	L.S.	\$ 1,000	\$ 1,000
10	Traffic Control Plan Development and Implementation	1	L.S.	\$ 2,000	\$ 2,000
11	Mobilization (Not to Exceed 10% of Total Contract)	1	L.S.	\$ 4,000	= \$ 4,000

Proposal Total* = 105,680

*The Proposal Total shall cover all work nessasary to accomplish and place into service the project as shown, all project incidentals shall be considered subsidiary .

Proposal Submitted By; JNB Construction, LLC

Address 12935 China Spring Rd , China Spring, Tx 76633

Phone Number (254)836-8100

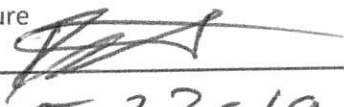
Email JNB_office@yahoo.com

JNB
[Signature]

City of Hewitt

2019 - Crockett Ln. Sewer Re-route

Authorized Representative's Signature



Date of Signature

5-23-19

*Note: City may deduct \$155/VF for the
manhole coating if so desired*

JNB


HEWITT TEXAS

COUNCIL AGENDA ITEM FORM

MEETING DATE: June 3, 2019

AGENDA ITEM #: 9

SUBMITTED BY: Bo Thomas, City Manager

ITEM DESCRIPTION:

Consider Resolution No. 2019-07; selecting an elected official of the City of Hewitt as the City's nominee for service as a member of the governing body of the McLennan County Rural Transit District.

STAFF RECOMMENDATION/ITEM SUMMARY:

The initial term for the Place 8 Director (Precinct 4 Region) of the McLennan County Rural Transit District Board of Directors has expired. The County Judge's Office is requesting that each incorporated city in Precinct 4 Region (by resolution) nominate a member of the city's governing body for consideration on becoming a member of the governing body of the district.

Voting will take place once the nominees have been submitted to the County Judge's Office. The nominees will be placed on a ballot and sent to each of the cities in the Precinct 4 Region.

SUGGESTED MOTION:

I move approval of Resolution No. 2019-07; selecting an elected official of the City of Hewitt as the City's nominee for service as a member of the governing body of the McLennan County Rural District Board of Directors.

ATTACHMENTS:

Resolution
Letter from County Judge

RESOLUTION NO. 2019-07

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS SELECTING AN ELECTED OFFICIAL OF THE CITY AS THE CITY'S NOMINEE FOR SERVICE AS A MEMBER OF THE GOVERNING BODY OF THE MCLENNAN COUNTY RURAL TRANSIT DISTRICT

WHEREAS, the Commissioners Court of McLennan County created the McLennan County Rural Transit District in 2015; and

WHEREAS, the City has been requested to nominate a member of its governing body to be considered to become a member on the governing body of the McLennan County Rural Transit District.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS THAT:

1. the City Council nominates _____ to serve as a member of the governing body of the McLennan County Rural Transit District.

PASSED and RESOLVED on this _____ day of _____, 2019.

Charles D. Turner, Mayor

Lydia Lopez, City Secretary



Scott M. Felton
McLENNAN COUNTY JUDGE

P.O. BOX 1728 * Waco, Texas 76703-1728 * Phone No. 254-757-5049 * Fax No. 254-757-5196

April 17, 2019

City of Hewitt
Mayor Ed Passalugo
200 Patriot Crt
Hewitt, TX 76643

Mayor Passalugo;

The initial term for the Place 8 Director (Precinct 4 Region) of the McLennan County Rural Transit District Board of Directors has expired.

The County Judge's office is requesting that each incorporated city in the Precinct 4 Region (by resolution) nominate a member of the city's governing body for consideration of becoming a member of the governing body of the district. Once a member has been nominated, please return the completed resolution to our office via email to dustin.chapman@co.mclennan.tx.us.

Once the nominees are returned to the County Judge's Office, they will be placed on a ballot which will then be sent to each of the cities in the Precinct 4 Region. Voting will then take place as specified by Section 5.B. of the RESOLUTION OF THE TRANSPORTATION CONFERENCE COMMITTEE PROVIDING FOR THE SELECTION OF THE GOVERNING BODY OF THE MCLENNAN COUNTY RURAL TRANSIT DISTRICT:

B. Process for Places 5-8

Each City within the region that desires to put up a nominee for the place provides the County Judge's Office with a resolution indicating its nominee 90 days before expiration of the term. The nominees are placed on a ballot. A ballot is sent to each of the cities. Each city has 20 votes to split between the nominees. Only 10 of those votes may be cast for the City's own nominee. If there are only 2 nominees, a city need not cast the other 10 votes, but may do so. If there are 3 or more nominees, the city must cast the other 10 votes. The ballots are sent back to the County Judge's Office and compiled. The nominee with the highest total is selected to fill that region's place. If there is a tie, the County Judge will cast a vote to break the tie.

Respectfully,

Scott M. Felton

Scott M. Felton
McLennan County Judge

HEWITT TEXAS

COUNCIL AGENDA ITEM FORM

MEETING DATE: June 3, 2019

AGENDA ITEM #: 10

SUBMITTED BY: Bo Thomas, City Manager

ITEM DESCRIPTION:

Discussion concerning recommendation to Oncor Steering Committee of Cities regarding the denial of Oncor's Application for Approval of a Distribution Cost Recovery Factor.

STAFF RECOMMENDATION/ITEM SUMMARY:

The following memo to the Steering Committee of Cities served by Oncor is being provided for your information. Although we are members of the Steering Committee of Cities, **no action** is required as the City of Hewitt is on the list of cities that have ceded their jurisdiction.

SUGGESTED MOTION:

NO ACTION REQUIRED

ATTACHMENTS:

Supporting documentation

Mr. Brocato's Direct Line: (512) 322-5857
Email: tbrocato@lglawfirm.com

MEMORANDUM

TO: Steering Committee of Cities Served by Oncor ("OCSC")
FROM: Thomas Brocato
Jamie L. Mauldin
DATE: April 8, 2019
RE: Oncor – Distribution Cost Recovery Factor ("DCRF") filing

CONFIDENTIAL/ATTORNEY-CLIENT COMMUNICATION
CITY ACTION REQUIRED NO LATER THAN JUNE 7, 2019

On April 8, 2019, Oncor Electric Delivery Company LLC ("Oncor" or "Company") filed an Application for Approval to Amend its Distribution Cost Recovery Factor ("DCRF") in Public Utility Commission of Texas ("Commission") Docket No. 49427. In the filing, the Company is seeking an increase in distribution revenues of \$29,433,804. This is Oncor's second DCRF filing under a law adopted in 2011 allowing electric utilities to file limited issue, limited review cases.

OCSC has engaged the services of a consultant, Mr. Karl Nalepa, to review the Company's filing. Mr. Nalepa will review the filing and identify adjustments that should be made to the Company's request. We are recommending that cities retaining original jurisdiction deny the requested relief.

The Commission's rules allow cities 60 days to act on this application. That deadline is June 7, 2019. **Accordingly, we request that each city retaining original jurisdiction schedule the draft resolution attached to this memorandum for consideration at their next council meeting.**

If you have any concerns or question please do not hesitate to contact me at (512) 322-5857, tbrocato@lglawfirm.com or Jamie Mauldin at 512-322-5890, jmauldin@lglawfirm.com. We appreciate your continued support.

MODEL STAFF REPORT REGARDING ONCOR'S DISTRIBUTION COST RECOVERY FACTOR FILING

On April 8, 2019, Oncor Electric Delivery Company LLC ("Oncor" or "Company") filed an Application for Approval to Amend its Distribution Cost Recover Factor ("DCRF") to Increase Distribution Rates with each of the cities in their service area. In the filing, the Company asserts that it is seeking an increase in distribution revenues of \$29,433,804.

The resolution authorizes the City to join with the Steering Committee of Cities Served by Oncor ("OCSC") to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.

Purpose of the Resolution:

The purpose of the Resolution is to deny the DCRF application proposed by Oncor.

Explanation of "Be It Resolved" Paragraphs:

1. This section authorizes the City to participate with OCSC as a party in the Company's DCRF filing, PUC Docket No. 49427.
2. This section authorizes the hiring of Lloyd Gosselink Rochelle and Townsend, PC and consultants to review the filing, negotiate with the Company, and make recommendations to the City regarding reasonable rates. Additionally, it authorizes OCSC to direct any necessary administrative proceedings or court litigation associated with an appeal of this application filed with the PUC.
3. This paragraph finds that the Company's application is unreasonable and should be denied.
4. This section states that the Company's current rates shall not be changed.
5. The Company will reimburse Cities for their reasonable rate case expenses. Legal counsel and consultants approved by OCSC will submit monthly invoices that will be forwarded to Oncor for reimbursement.
6. This section recites that the Resolution was passed at a meeting that was open to the public and that the consideration of the Resolution was properly noticed.
7. This section provides that Oncor and counsel for OCSC will be notified of the City's action by sending a copy of the approved and signed Resolution to counsel.

ONCOR CITIES THAT HAVE CEDED ORIGINAL JURISDICTION

Abbott	Crowley	Jewett
Alma	Cumby	Jolly
Alvarado	Cushing	Josephine
Alvord	Dawson	Joshua
Angus	Dean	Justin
Anna	Dorchester	Kaufman
Annetta North	Dublin	Keene
Annetta South	Ector	Kemp
Annona	Edgecliff Village	Kerens
Appleby	Edgewood	Knollwood
Argyle	Edom	Krum
Athens	Elgin	Ladonia
Aurora	Elkhart	Lake Bridgeport
Bangs	Emhouse	Lake Dallas
Barry	Enchanted Oaks	Lakeside City
Bartlett	Eureka	Latexo
Bellevue	Eustace	Lavon
Blanket	Everman	Leona
Blooming Grove	Forney	Leroy
Boyd	Frost	Lindsay
Brownsboro	Garrett	Lipan
Buckholts	Gholson	Lorena
Buffalo	Godley	Lovelady
Burke	Golinda	Lowry Crossing
Bynum	Goodlow	Lucas
Caddo Mills	Gorman	Mabank
Cameron	Grandfalls	Malakoff
Campbell	Grandview	Malone
Caney City	Granger	Marquez
Canton	Grapeland	McGregor
Carbon	Gun Barrel City	Melissa
Centerville	Gunter	Mertens
Chico	Hebron	Milano
Chireno	Hewitt	Mildred
Clarksville	Hickory Creek	Milford
Cockrell Hill	Hideaway	Millsap
Collinsville	Holland	Mobile City
Comanche	Honey Grove	Moody
Como	Hubbard	Morgan's Point Resort
Cool	Hudson	Mount Calm
Corinth	Huntington	Murchison
Corsicana	Hutto	Mustang
Crandall	Italy	Nacogdoches
Crockett	Itasca	Navarro

ONCOR CITIES THAT HAVE CEDED ORIGINAL JURISDICTION

Nevada	Streetman
New Chapel Hill	Taylor
New Fairview	Terrell
Newark	Thorndale
Neylandville	Thorntonville
Northlake	Thrall
Oak Grove	Tira
Oak Leaf	Tool
Oak Valley	Trinidad
Oakwood	Valley View
Oglesby	Van Alstyne
Ovilla	Venus
Payne Springs	Weir
Pecan Gap	Wells
Pecan Hill	West
Penelope	Westbrook
Pflugerville	Wickett
Pleasant Valley	Wills Point
Ponder	Windom
Post Oak Bend	Wolfe City
Powell	Yantis
Poynor	Zavalla
Princeton	
Pyote	
Quinlan	
Ranger	
Reno - Lamar County	
Reno - Parker County	
Retreat	
Rhome	
Rice	
Richland	
Rockdale	
Rogers	
Rosser	
Roxton	
Royse City	
Runaway Bay	
Sadler	
Savoy	
Shady Shores	
Southmayd	
Springtown	
St. Paul	