

## AGENDA

Notice is hereby given of a meeting of the **Board of Commissioners of Burkburnett** to be held on **Monday, April 20, 2020, at 7:00 p.m.** at City Hall-Council Chambers, 501 Sheppard Road, Burkburnett, Texas to consider the following agenda items. The Board of Commissioners may discuss and take action on any item on this agenda. The Board of Commissioners reserves the right to meet in a closed session on any agenda item should the need arise and, if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

*Due to Governor Abbott's executive order limiting social gatherings to 10 people, this meeting will be closed to public attendance. To listen to the meeting, please follow the directions below:*

### **Telephone Access Information**

Dial-In: 1 (571) 317 3116

1 (866) 899 4679 (Toll-Free)

Access Code: 877-328-141

*If, during the meeting, you have comments/questions, please email them to [mpoole@burkburnett.org](mailto:mpoole@burkburnett.org).*

### **PUBLIC COMMENTS ON AGENDA ITEMS**

The public may speak on items listed on the posted agenda. All persons desiring to address a specific agenda item must email comments/questions to the City Clerk, Margie Poole at [mpoole@burkburnett.org](mailto:mpoole@burkburnett.org), before the reading of the agenda item.

### **ITEM 1. CALL MEETING TO ORDER: MAYOR CARL LAW**

### **ITEM 2. INVOCATION**

### **ITEM 3. PLEDGE OF ALLEGIANCE**

### **ITEM 4. CONSENT AGENDA**

- A. Approval of Minutes from March 27, 2020 Special-Called Emergency Meeting at noon.
- B. Approval of Minutes from March 27, 2020 Special-Called Emergency Meeting at 5:00 p.m.

### **ITEM 5. Discuss and take any action on Ordinance Number 972.**

AN ORDINANCE OF THE CITY OF BURKBURNETT, TEXAS REAFFIRMING THE ESTABLISHMENT OF THE POLICE DEPARTMENT, REQUIRING ALL POLICE OFFICERS TO BE LICENSED, REAFFIRMING THE POSITION OF CHIEF OF POLICE, OUTLINING THE GENERAL DUTIES AND RESPONSIBILITIES OF THE CHIEF OF POLICE, AND REAFFIRMING THE AUTHORITY, DUTIES, AND RESPONSIBILITIES OF POLICE OFFICERS; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

**ITEM 6.** Discuss and take any action on Resolution Number 674.

A RESOLUTION OF THE CITY OF BURKBURNETT, TEXAS FINDING THAT ONCOR ELECTRIC DELIVERY COMPANY LLC'S APPLICATION FOR APPROVAL TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR TO INCREASE DISTRIBUTION RATES WITHIN THE CITY SHOULD BE DENIED; AUTHORIZING PARTICIPATION WITH ONCOR CITIES STEERING COMMITTEE; AUTHORIZING THE HIRING OF LEGAL COUNSEL AND CONSULTING SERVICES; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.

**ITEM 7.** Discuss and take any action on the City of Wichita Falls Water Contract Amendment.

**ITEM 8. EXECUTIVE SESSION**

Pursuant to the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, the Board of Commissioners may convene in Executive Session regarding the following matters:

- A. SECTION 551.074 – Discuss the appointment, employment, evaluation, reassignment, duties, discipline, dismissal of, or to hear a complaint against the public officer or employee.
  - a. Annual evaluation of Lawrence Cutrone, City Manager

**ITEM 9. RECONVENE**

Reconvene to regular session and take action, if any, on matters discussed in Executive Session.

**ITEM 10. CITY MANAGER'S REPORT**

**ITEM 11. COMMISSIONERS' COMMENTS**

Pursuant to Government Code Section 551.0415, City Commissioner Members may make a report about items of Community interest during a meeting of the governing body without having given notice of the report. Items of community interest include:

- Expressions of thanks, congratulations, or condolence;
- Information regarding holiday schedules;
- An honorary or salutary recognition of a public official, public employee, or another citizen, except that a discussion regarding a change in the status of the person's public office of public employment is not an honorary or salutary recognition for purposes of this subdivision;
- A reminder about an upcoming event organized or sponsored by the governing body;
- Information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; and
- Announcements involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

**ITEM 12. ADJOURNMENT**

I, Margie Poole, City Clerk for the City of Burkburnett, Texas do hereby certify that I posted this agenda on the glass front door of the City Hall, facing the outside at 4:15 PM on April 17, 2020, in compliance with the Open Meetings Act Chapter 551.

Margie Poole  
Margie Poole, City Clerk  
Posted 4/17/20 @ 4:15pm

This facility is wheelchair accessible, and accessible parking spaces are available. If any accommodations for a disability are required, please notify the City Clerk's Office at 940.569.2263 at least 72 hours before the meeting date. Concerning any item, the Board of Commissioners may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time.

I certify that the attached notice of the Board of Commissioners was removed by me from the glass front door of City Hall on the \_\_\_\_\_ day of \_\_\_\_\_ 2020 at \_\_\_\_\_

\_\_\_\_\_  
Title: \_\_\_\_\_

## ***MINUTES***

### ***BOARD OF COMMISSIONERS***

The Board of Commissioners of the City of Burkburnett, Texas, met in a Special-Called Emergency Meeting on Friday, March 27, 2020, at noon at City Hall-Council Chambers, 501 Sheppard Road, Burkburnett, Texas. The meeting was open to the public via telephone conference call, with notice being given in compliance with the Open Meetings Act. The following Commissioners were present:

Carl Law	Mayor
Marguerite Love	Mayor Pro-Tem
Josh Andrajack	Commissioner
Randy Brewster	Commissioner
Jeremy Duff	Commissioner
Ted Kwas	Commissioner
Bill Lindenborn	Commissioner

Others present were Lawrence Cutrone, City Manager; Fred Tillman, Chief of Police/Jeff Krc, Emergency Management Coordinator; and Margie Poole, City Clerk.

#### **ITEM 1. CALL MEETING TO ORDER: MAYOR CARL LAW**

Mayor Law called the meeting to order at noon.

#### **ITEM 2. INVOCATION**

Mr. Lawrence Cutrone, City Manager, gave the invocation.

#### **ITEM 3. PLEDGE OF ALLEGIANCE**

Commissioner Duff led the Pledge of Allegiance.

#### **ITEM 4. CONSENT AGENDA**

- A. Approval of the Minutes from March 16, 2020, Regular Meeting.
- B. Approval of the Minutes from March 23, 2020, Special-Called Emergency Meeting.

Commissioner Andrajack made a motion, seconded by Mayor Pro-Tem Love, to approve the minutes from the March 16, 2020, Regular Meeting, and the minutes from the March 23, 2020, Special-Called Emergency Meeting. Motion carried, with Commissioner Lindenborn abstaining.

#### **ITEM 5. Discuss and take any action necessary on Resolution 673.**

A RESOLUTION OF THE BOARD OF COMMISSIONERS FOR THE CITY OF  
BURKBURNETT, TEXAS ADOPTING THE MARCH 23, 2020 VERSION OF  
THE WICHITA COUNTY BASIC EMERGENCY MANAGEMENT PLAN

Detective Jeff Krc, Emergency Management Coordinator, addressed the Mayor and Commissioners, stating his recommendation to approve this plan as presented. Mr. Lawrence Cutrone, City Manager, noted the need to update the date of the resolution to today's date.

Commissioner Andrajack made a motion, seconded by Commissioner Lindenborn, to Resolution Number 673. Motion carried unanimously.

**ITEM 6.** Discussion on Order of Mayor of City of Burkburnett, Texas, for *Stay Home Stay Safe*.

Mr. Lawrence Cutrone, City Manager, addressed the Mayor and Commissioners, stating that the *Stay Home Stay Safe* document was created initially by the city attorney (who we share with Iowa Park) for the City of Iowa Park. This version has been tailored for the City of Burkburnett. Per the Board of Commissioners' Declaration of Local State of Disaster, the Mayor can enact these measures without the Board of Commissioners' approval should he choose to. It is on this agenda for discussion purposes only. Mayor Carl Law stated that he would not issue this without the support of the BOC, even though the authority remains with the Mayor. Discussion thereby ensued regarding this document with no action taken.

The Board of Commissioners agreed to review the Shelter in Place document that the City of Wichita Falls enacted this afternoon and convene an Emergency-Called Meeting this afternoon at 5:00 p.m.

**ITEM 7. COMMISSIONERS' COMMENTS**

There were no Commissioners' comments.

**ITEM 8. ADJOURNMENT**

Commissioner Andrajack made a motion, seconded by Commissioner Kwas, to adjourn. The meeting adjourned at 1:46 p.m.

\_\_\_\_\_  
Carl Law, Mayor

**ATTEST:**

\_\_\_\_\_  
Margie Poole, City Clerk

## ***MINUTES***

### ***BOARD OF COMMISSIONERS***

The Board of Commissioners of the City of Burkburnett, Texas, met in a Special-Called Emergency Meeting on Friday, March 27, 2020, at 5:00 p.m. at City Hall-Council Chambers, 501 Sheppard Road, Burkburnett, Texas. The meeting was open to the public via telephone conference call, with notice being given in compliance with the Open Meetings Act. The following Commissioners were present:

Carl Law	Mayor
Marguerite Love	Mayor Pro-Tem
Josh Andrajack	Commissioner
Randy Brewster	Commissioner
Jeremy Duff	Commissioner
Ted Kwas	Commissioner
Bill Lindenborn	Commissioner

Others present were Lawrence Cutrone, City Manager; Fred Tillman, Chief of Police; and Margie Poole, City Clerk.

#### **ITEM 1. CALL MEETING TO ORDER: MAYOR CARL LAW**

Mayor Law called the meeting to order at 5:00 p.m.

#### **ITEM 2. INVOCATION**

Commissioner Lindenborn gave the invocation.

#### **ITEM 3. PLEDGE OF ALLEGIANCE**

Mayor Pro-Tem Love led the Pledge of Allegiance.

#### **ITEM 4. Discuss and take any action necessary on Ordinance Number 971.**

##### **AN ORDINANCE ISSUING A SHELTER IN PLACE ORDER; DECLARING AN EMERGENCY**

After the City Clerk's clarification that the correct Ordinance Number is 971 not 969 per the Agenda Handout, City Manager, Mr. Lawrence Cutrone introduced Mr. Michael Guevara, City Attorney, who addressed the Mayor and Commissioners stating that this ordinance is mainly based upon the ordinance that the City of Wichita Falls recently passed. Mr. Guevara stated that he made the following changes to the City of Wichita Falls' ordinance:

1. In Ordinance 971, under number 2, inserted:  
*This ordinance is passed as an emergency measure and shall become effective immediately upon its passage and shall be in effect until the Wichita County Judge issues a shelter in place order. At which time, the Wichita County order will control in the event of a conflict between this Ordinance and the Wichita County order.*
2. Changes in the WHEREAS statements to track the City of Burkburnett timeline.

3. Removed an entire section at the end that referred only to the City of Wichita Falls' Code of Ordinances.
4. Amended Section 9. Enforcement to include “...or confinement in jail for a term that does not exceed 180 days...”

Discussion then ensued regarding the individual sections of Ordinance 971 and enforcement of any offenses of the shelter in place order. The consensus was to have uniformity and adhere to the City of Wichita Falls plan with these two amendments: change 10 positive cases to 15 positive cases and leave in the language regarding County Order.

Commissioner Brewster made a motion, seconded by Commissioner Kwas, to adopt Ordinance Number 971 with the amendments presented. Motion carried unanimously.

#### **ITEM 5. COMMISSIONERS' COMMENTS**

There were no Commissioners' comments.

#### **ITEM 6. ADJOURNMENT**

Commissioner Brewster made a motion, seconded by Commissioner Duff, to adjourn. The meeting adjourned at 6:00 pm.

\_\_\_\_\_  
Carl Law, Mayor

**ATTEST:**

\_\_\_\_\_  
Margie Poole, City Clerk

**ORDINANCE NUMBER 972**

**AN ORDINANCE OF THE CITY OF BURKBURNETT, TEXAS REAFFIRMING THE ESTABLISHMENT OF THE POLICE DEPARTMENT, REQUIRING ALL POLICE OFFICERS TO BE LICENSED, REAFFIRMING THE POSITION OF CHIEF OF POLICE, OUTLINING THE GENERAL DUTIES AND RESPONSIBILITIES OF THE CHIEF OF POLICE, AND REAFFIRMING THE AUTHORITY, DUTIES, AND RESPONSIBILITIES OF POLICE OFFICERS; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.**

**WHEREAS**, Chapter 341 of the Texas Local Government Code authorizes cities to provide for a Police Department; and

**WHEREAS**, the City of Burkburnett, Texas (“City”) has a long-standing and lawfully existing police department and the Board of Commissioners wishes to reaffirm the police department (“Police Department”) by Ordinance to assist the Police Department of Burkburnett in pursuing “Recognized” status from the Texas Police Chiefs Association’s Law Enforcement Best Business Practices Recognition Program (“Recognition Program”), and

**WHEREAS**, the standards of the Recognition Program require explicit language confirming the existence of a police department and the authority and responsibility of both Officers and the Chief of Police, rather than reliance upon the general power’s provisions provided in State law.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, THAT:**

**SECTION 1: Findings Incorporated.**

The findings set forth above are incorporated into the body of this Ordinance as fully set forth herein.

**SECTION 2: Enacted.**

**A. Purpose and Intent.**

The purpose and intent of this Ordinance are to secure the general health, safety, and welfare of the residents of the City of Burkburnett by:

1. Explicitly affirming the existence of the Police Department created by the City;
2. Explicitly affirming the position of Chief of Police to oversee and manage the Burkburnett Police Department; and
3. Outlining the duties and responsibilities of both Chief of Police and Police Officers.

**B. Reaffirmation of the Existence of the City’s Police Department.**

The existence and creation of the City’s Police Department, the head of which shall be the Chief of Police, is hereby reaffirmed. The Police Department shall be composed of the Chief of the

Police, and other officers and employees as the Chief of Police, City Manager and/or City budget may provide. The jurisdiction of the Police Department shall be the corporate limits of the City, that property lying outside the city limits which is owned by the City and other areas allowed by law.

**C. Certification; Compliance with State Requirements.**

No person will be certified as a police officer of the City who has not complied with the basic requirements established by the state for police officers and by the City acting through the Chief of Police.

**D. Chief of Police.**

1. The Chief of the Police shall be selected and removed by the City Manager in accordance with the City Charter, City Personnel Policy Handbook, and other applicable laws and policies.

2. The Chief of Police shall carry out the functions of the Police Department relating to public safety and enforcement of Ordinances, state, and federal laws; organize the Police Department of the City in conformity with the laws of the state, direction of the City Manager and Ordinances of the City; and shall promulgate policies, procedures, rules, directives, and orders for the administration of the Police Department, including but not limited to discipline with the Police Department.

**E. Authority and Duties of Police Officers.**

1. Individual officers constituting the City's Police Department are invested with all the power and authority given to them as peace officers under the laws of the state. Inherent with this power and authority is the obligation to preserve the peace, to enforce the Ordinances and regulations of the City, and the laws of the state and the United States, to take legal custody of offenders and to secure the citizens from violence. Nothing in this Ordinance shall limit the authority given to peace officers or the Chief of Police by other law.

2. All personnel of the Police Department shall be bound by the most current directives, orders, rules, regulation and procedures for the operation of the Police Department as may be promulgated or as hereinafter amended by the Chief of Police, City Manager, or Board of Commissioners and failure to abide thereby shall subject the violating personnel to such disciplinary action as may be determined by the Chief of Police within the limits of state law, City Ordinance and City and Police Department policies.

**SECTION 3: Severability.**

If any section, article, paragraph, sentence, clause, phrase, or word in the Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance. The Board of Commissioners hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 4: Repealer.**

This Ordinance shall be cumulative of all other Ordinances. It shall not repeal any of the provision of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. All Ordinances and resolutions or parts thereof that conflict with the Ordinance are hereby repealed to the extent of any conflict.

**SECTION 5: Savings.**

All rights and remedies of the City of Burkburnett, Texas, are expressly saved as to any and all violations of the provisions of any other Ordinance affecting regulations governing and regulating the zoning, platting, and subdivision of land which have secured a the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances same shall not be affected by the Ordinance but may be prosecuted until final disposition by the courts.

**SECTION 6: Effective Date.**

This Ordinance shall become effective from and after its date of passage in accordance with the law.

**PASSED AND APPROVED this the 20<sup>th</sup> day of April 2020.**

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Carl Law, Mayor  
City of Burkburnett, Texas

**ATTEST:**

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Margie Poole, City Clerk

**RESOLUTION NUMBER 674**

**A RESOLUTION OF THE CITY OF BURKBURNETT, TEXAS FINDING THAT ONCOR ELECTRIC DELIVERY COMPANY LLC'S APPLICATION FOR APPROVAL TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR TO INCREASE DISTRIBUTION RATES WITHIN THE CITY SHOULD BE DENIED; AUTHORIZING PARTICIPATION WITH ONCOR CITIES STEERING COMMITTEE; AUTHORIZING THE HIRING OF LEGAL COUNSEL AND CONSULTING SERVICES; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.**

**WHEREAS**, the City of Burkburnett, Texas ("City") is an electric utility customer of Oncor Electric Delivery Company LLC ("Oncor" or "Company"), and a regulatory authority with an interest in the rates and charges of Oncor; and

**WHEREAS**, the Oncor Cities Steering Committee ("OCSC") is a coalition of similarly situated cities served by Oncor that have joined together to efficiently and cost effectively review and respond to electric issues affecting rates charged in Oncor's service area in matters before the Public Utility Commission ("Commission") and the courts; and

**WHEREAS**, on or about April 3, 2020, Oncor filed with the Commission an Application to Amend its Distribution Cost Recovery Factor ("DCRF"), Commission Docket No. 50734, seeking to increase distribution rates by \$75.9 million annually (an approximately \$0.88 increase to the average residential customer's bill); and

**WHEREAS**, the City of Burkburnett will cooperate with OCSC in coordinating their review of Oncor's DCRF filing with designated attorneys and consultants, prepare a common response, negotiate with the Company, and direct any necessary litigation, to resolve issues in the Company's filing; and

**WHEREAS**, all electric utility customers residing in the City will be impacted by this ratemaking proceeding if it is granted; and

**WHEREAS**, working with the OCSC to review the rates charged by Oncor allows members to accomplish more collectively than each city could do acting alone; and

**WHEREAS**, OCSC's members and attorneys recommend that members deny Oncor's DCRF.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS:**

**SECTION 1.** That the City is authorized to participate with OCSC in Commission Docket No. 50734.

**SECTION 2.** That, subject to the right to terminate employment at any time, the City of Burkburnett hereby authorizes the hiring of the law firm of Lloyd Gosselink Rochelle & Townsend, P.C. and consultants to negotiate with the Company, make recommendations to the City regarding reasonable rates, and to direct any necessary administrative proceedings or court litigation associated with an appeal Oncor's DCRF application.

**SECTION 3.** That the rates proposed by Oncor to be recovered through its DCRF charged to customers located within the City limits, are hereby found to be unreasonable and shall be denied.

**SECTION 4.** That the Company shall continue to charge its existing rates to customers within the City.

**SECTION 5.** That the City's reasonable rate case expenses shall be reimbursed in full by Oncor within 30 days of the adoption of this Resolution.

**SECTION 6.** That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

**SECTION 7.** That a copy of this Resolution shall be sent to Tab Urbantke, Attorney for Oncor, at Hunton Andrews Kurth LLP, 1445 Ross Avenue, Suite 3700, Dallas, Texas 75202, and to Thomas Brocato, General Counsel to OCSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, TX 78767-1725, or tbrocato@lglawfirm.com.

**PASSED AND APPROVED THIS 20<sup>TH</sup> DAY OF APRIL 2020.**

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Carl Law, Mayor

**ATTEST:**

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Margie Poole, City Clerk



April 15, 2020

Mr. Lawrence Cutrone  
501 Sheppard Road  
Burkburnett, TX 76354  
Via email: [lcutrone@burkburnett.org](mailto:lcutrone@burkburnett.org)

**Subject: Wichita Falls Wholesale Rate Study and Contract Amendment**

Dear Mr. Cutrone:

Thank you for the discussion over the phone clarifying the City of Burkburnett's concerns and questions about the language in the contract amendment. As mentioned on the call, the new language addresses the three-year average calculation as it applies to both retail and wholesale customers of the system. The consumption of the customers is used in the study to allocate costs to the customer classes and to calculate the rate for the following year. Instead of using one year, specifically the test year consumption, Wichita Falls will now use a three-year average for all usage data used in the model.

The first step to allocating costs is to determine the consumption that will be used for the test year. As mentioned, the contract amendment changes this from one year to a three-year average. In the FY 2021 rate model, FY 2017, 2018 and 2019 consumption will be averaged for each wholesale customer and for the retail customers of Wichita Falls. This consumption will be used in Table 12 of the model. Table 12 of the 2020 model is shown as Attachment A. The three-year average will also be used to calculate the peaking factors used in Table 12. Table 12 is used to allocate the costs between the wholesale and retail customer classes.

After the costs are allocated to the customers classes, retail, Treated Water Transmitted and the Raw Water Only classes, the rate is calculated by dividing the costs attributed to the classes by the consumption. In this next study that consumption will be equal to the three-year average used in Table 12. As can be seen in Attachments A & B, these numbers match and will continue to match after the conversion is made to the three-year average in this next study.

In the next study and report, Raftelis will document clearly the changes to the calculations within the model and identify the tables where these changes are reflected. This will help for future studies and ensure that the same process is followed the next year.

We hope that this letter has helped to clarify the changes addressed in the contract amendment. If you have any further questions, please feel free to contact me at (512) 790-2108 or by email at [aflores@raftelis.com](mailto:aflores@raftelis.com).

Sincerely,

A handwritten signature in cursive script that reads "Angie Flores".

**Angie Flores**  
*Senior Manager*

cc: Jessica Williams, City of Wichita Falls, via email  
Sara Thornton, Lloyd Gosselink Rochelle and Townsend, PC, via email

**ATTACHMENT A**

**Table 12  
City of Wichita Falls  
Allocation Factors  
FY 2018**

Particulars	FY 2018		FY 2017	
	Volume (ccf)	Percent	Volume (ccf)	Percent
<b><u>I. Treated Water Consumption</u></b>				
Cypress & Jasper Pumpage	7,363,142	100.00	7,052,846	100.00
Iowa Park (Treated Water Only)			-	
Sheppard AFB (Treated Water Only)			119,617	
Iowa Park & Sheppard AFB - Total	-	0.00	119,617	1.70
Other Treated Water Customers	1,296,975	17.61	1,126,677	15.97
Wichita Falls	6,066,167	82.39	5,806,552	82.33
<b><u>II. Treated Water - Peak</u></b>				
Cypress & Jasper Pumpage	29,697	100.00	25,046	100.00
Iowa Park (T.W.O.)	0	0.00	-	0.00
Sheppard AFB (T.W.O.)	0	0.00	415	1.66
Iowa Park & Sheppard AFB - Total	-	0.00	415	1.66
Other Treated Water Customers	6,215	20.93	4,029	16.08
Wichita Falls	23,482	79.07	20,602	82.26
<b><u>III. Raw Water</u></b>				
Lake Pumpage	7,584,036	100.00	7,264,432	100.00
Raw Water Cities	438,756	5.79	330,204	4.55
Other (Treated Water Delivered)	7,145,280	94.21	6,934,228	95.45
Iowa Park & Sheppard AFB		0.00		1.62
Other Treated Water Customers		16.59		15.24
Wichita Falls		77.62		78.59
<b><u>IV. Treated Water Delivered</u></b>				
Iowa Park & Sheppard AFB		94.21		95.45
Other Customer Cities		17.61		16.25
Wichita Falls		82.39		83.75

Used in Table 16 to calculate rate

## ATTACHMENT B

**Table 16**  
**City of Wichita Falls**  
**Allocation of Overall Cost of Service**  
**to Customer Class**  
**FY 2018**

Particulars	Total	Wichita Falls Retail			Wholesale Customers					
		Commodity	Demand	Customer Service	Treated Water Transmitted		Treated Water Only		Raw Water Only	
					Commodity	Demand	Commodity	Demand	Commodity	Demand
Rate Base	\$ 264,869,404	\$ 37,641,702	\$ 165,481,181	\$ 16,477,450	\$ 8,045,520	\$ 34,418,127	\$ -	\$ -	\$ 2,805,424	\$ -
Rate of Return	4.253%	4.253%	4.253%	4.253%	4.253%	4.253%	4.253%	4.253%	4.253%	4.253%
Return	\$ 11,264,137	\$ 1,600,794	\$ 7,037,441	\$ 700,739	\$ 342,153	\$ 1,463,704	\$ -	\$ -	\$ 119,307	\$ -
Depreciation	\$ 6,434,497	\$ 594,891	\$ 4,118,042	\$ 729,580	\$ 127,152	\$ 820,494	\$ -	\$ -	\$ 44,337	\$ -
O&M Expenses	\$ 13,121,700	\$ 376,154	\$ 9,413,505	\$ 1,431,340	\$ 80,399	\$ 1,792,267	\$ -	\$ -	\$ 28,035	\$ -
<b>Total Cost of Service</b>	<b>\$ 30,820,334</b>	<b>\$ 2,571,840</b>	<b>\$ 20,568,988</b>	<b>\$ 2,861,659</b>	<b>\$ 549,704</b>	<b>\$ 4,076,465</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 191,678</b>	<b>\$ -</b>

Rate Design:	RETAIL	TWT	TWO	RWO
Cost of Service				
Customer Svc.	\$ 2,861,659			
Commodity	\$ 20,568,988	\$ 549,704	\$ -	\$ 191,678
Demand	\$ 2,571,840	\$ 4,076,465	\$ -	\$ -
Total Cost of Service	<u>\$ 26,002,487</u>	<u>\$ 4,626,169</u>	<u>\$ -</u>	<u>\$ 191,678</u>
CCF (100's Cubic Feet)	6,066,167	1,296,975		438,756
Gallons (000's gallons)				328,189
Rate per 100 cubic feet	<u>\$4.2865</u>	<u>\$3.5669</u>		<u>\$0.4369</u>
Rate per 1000 gallons				\$0.5840

**Same usage amount in Table 12**

**FIRST AMENDMENT TO POTABLE WATER PURCHASE CONTRACT BETWEEN  
THE CITY OF WICHITA FALLS AND THE CITY OF BURKBURNETT, TEXAS**

THE STATE OF TEXAS     §

COUNTY OF WICHITA     §

This First Amendment to the 2010 Potable Water Purchase Contract Between the City of Wichita Falls and the City of Burkburnett, Texas (“First Amendment”) is entered into between the City of Wichita Falls, a Texas home rule municipality (“City” or “Wichita Falls”), and the City of Burkburnett, a Texas home rule municipality (“Customer” or “Burkburnett”), collectively “Parties,” to modify certain rights and responsibilities of the Parties under a previous agreement for wholesale water service.

**RECITALS**

**A.** Wichita Falls and Burkburnett previously entered into a 2010 Agreement for Potable Water Purchase (“2010 Water Contract”), dated effective July 6, 2010, that is currently in full force and effect, setting forth certain terms and conditions under which Wichita Falls agreed to provide potable water service, on a wholesale basis, to Burkburnett for its distribution system serving retail connections within Burkburnett’s corporate boundaries and extraterritorial jurisdiction.

**B.** In support of the First Amendment, Wichita Falls provided Burkburnett a letter from Angie Flores with Raftelis explaining in the reason for and clarification of the changes made to the 2010 Water Contract in the First Amendment (attached hereto as Exhibit A).

**C.** Burkburnett and Wichita Falls now mutually desire to modify certain rights and responsibilities of the Parties under the 2010 Water Contract as hereinafter set forth:

**AGREEMENT**

**NOW, THEREFORE,** for good and valuable consideration, including the mutual agreements, covenants and conditions set forth in this First Amendment to the 2010 Water Contract, Wichita Falls and Burkburnett agree as follows:

**1.** Section 2.1 (“Annual Changes to Water Rates”) of the 2010 Water Contract is hereby deleted in its entirety and the following is substituted in lieu thereof:

**2.1 Annual Changes to Water Rates.** Customer authorizes the rates for water to be changed annually, based on the following rate setting principles:

- a. Revenue requirements to be determined on utility basis at the agreed test years' original cost adjusted 30% toward current cost to cover its cost as a compensation for ownership.
- b. The test years shall be the average of the City's previous three years' consumption of the retail customers of the City of Wichita Falls and all the wholesale customers. The peaking factor will be calculated similarly using an average of the max month for the last three years divided by the average 3-year monthly consumption. The consumption and peaking share play a large role in assigning costs between the wholesale and retail classes.
- c. City to receive a Rate of Return on the agreed adjusted value Rate Base equal to a composite of the utility's test years' embedded cost of money weighted on the debt portion of capital invested in plant in service and the utility's latest cost of money weighted on the remaining equity portion of plant in service to cover its risks.
- d. All existing reservoirs and associated facilities to be included in common rate base. Wholesale customers as a class (either raw water only, raw water transmitted, treated water only and transmitted treated water) will pay their proportionate share of all costs based on current use.
- e. A flat rate (volume only) shall be charged, with allocation of 100% current use to encourage conservation and thereby resulting in efficient utilization of the water system.
- f. The risk of financing all future raw water transmission lines and reservoirs must be borne by the City Water utility, and all costs will be allocated among all wholesale customers on current use bases.

The rates will be considered changed on the later of (1) the date City's Director of Public Works sends a written Notice of Rate Modification to Customer's address as provided in this Contract, or (2) the effective date of the aforementioned Notice of Rate Modification.

**3. Effect of First Amendment.** Except as specifically provided in this First Amendment, the terms of the 2010 Water Contract continue to govern the rights and obligations of the parties, and all terms of the 2010 Water Contract, as modified by this First Amendment, remain in full force and effect. The 2010 Water Contract is incorporated herein by reference for all purposes. The Parties recognize that this First Amendment is a legally binding document and is enforceable under the laws of the State of Texas. In the event a dispute arises over the meaning or performance of this Agreement, the Parties agree that venue for any lawsuits shall be in Wichita County, Texas. The prevailing Party in such a dispute shall be entitled to costs and attorney's fees, in addition to any damages or specific performance.

4. **Multiple Originals.** This First Amendment may be executed in multiple counterparts, each of which will constitute an original.

5. **Effective Date.** This First Amendment will be effective on the date the last party signs.

**IN WITNESS WHEREOF**, the authorized representatives of Wichita Falls and Burkburnett have executed this First Amendment, as authorized by the City Councils of Wichita Falls and Burkburnett, on the date(s) indicated below.

**CITY OF WICHITA FALLS, TEXAS**

By: \_\_\_\_\_

Date: \_\_\_\_\_

THE STATE OF TEXAS §

COUNTY OF WICHITA §

**THIS INSTRUMENT** was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_ 2020, by \_\_\_\_\_ as \_\_\_\_\_ of the City of Wichita Falls, Texas, a municipal corporation, on behalf of said municipal corporation.

\_\_\_\_\_  
Notary Public, State of Texas

**CITY OF BURKBURNETT, TEXAS**

By: \_\_\_\_\_

Date: \_\_\_\_\_

THE STATE OF TEXAS     §

COUNTY OF WICHITA     §

**THIS INSTRUMENT** was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_  
2020, by \_\_\_\_\_ as \_\_\_\_\_ of the City of Burkburnett,  
Texas, a municipal corporation, on behalf of said municipal corporation.

\_\_\_\_\_  
Notary Public, State of Texas