



**AGENDA ITEM REQUEST FORM  
CITY OF JOHNSON CITY, TEXAS  
CITY COUNCIL**

**ITEM NO. 12**

**MEETING DATE:**           **June 1, 2021**

**AGENDA PLACEMENT:**

- Ceremonial
- Consent
- Individual
- Closed Session

**CAPTION:**

Discussion of and action on the City of Johnson City Recycling Center, including, but not limited to, the following:

- a) A Resolution of the City Council of the City of Johnson City authorizing the closure of the City Recycling Center facility;
- b) A Resolution of the City Council of the City of Johnson City approving the Memorandum of Understanding between the City and the North Blanco Co. Emergency Services District No. 1 (ESD) regarding lease agreements; and
- c) A Resolution of the City Council of the City of Johnson City approving and authorizing the execution of the First Amendment to the Lease Agreements between the City and the ESD. (Staff)

**STRATEGIC WORK PLAN:**

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|--|--|
| <input checked="" type="checkbox"/> Not Applicable               | <input type="checkbox"/> Goal 5: Improve Fire Safety                             |
| <input type="checkbox"/> Goal 1: Increase Housing Diversity      | <input type="checkbox"/> Goal 6: Improve Streets                                 |
| <input type="checkbox"/> Goal 2: Expand Quality Lodging          | <input type="checkbox"/> Goal 7: Increase Publicity & Promotion of the Community |
| <input type="checkbox"/> Goal 3: Improve Code Enforcement        | <input type="checkbox"/> Goal 8: Increase Economic Development Activities        |
| <input type="checkbox"/> Goal 4: Improve Streetscaping & Signage |  |

**EXECUTIVE SUMMARY:**

On November 10, 2020, the City Council requested a copy of and discussion on the CAPCOG Interlocal Contract for Solid Waste Equipment and Services related to the City of Johnson City Recycling Center.

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The City Council received said information on December 8, 2020. Discussion included closing the Recycling Center until the facility completely depreciates; halting commercial onsite cardboard collection and leaving the Center open for drop off only; or reducing the Center's hours of operation. Discussion also included how closing the facility would affect the existing lease between the City and the Emergency Services District No. 1 (ESD). Councilmembers Babb, Coleman, Young, and Guthrie voiced their support for either closing or shortening the hours of the Recycling Center.

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The City Council discussed the Recycling Center and existing and proposed lease agreements between the City and the ESD again on March 2, 2021. The proposed lease deletes key provisions contained within the current lease and requires additional items. Council discussed the current lease's validity and whether the City was obligated to enter into a new lease. One option discussed was to move the Center to a new location. Renegotiating the proposed lease terms was also discussed. The item was tabled.

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City Staff sought additional guidance from CAPCOG and TCEQ following the March 2, 2021 City Council meeting. On April 29, 2021, CAPCOG advised that TCEQ was 1) willing to use the City's depreciation methodology and 2) reduce the amount owed from approximately \$51,000 to \$28,621.88. If the City Council desires to close the Recycling Facility, the City would be required to issue a check for the abovementioned amount to CAPCOG/TCEQ. The City would then notify the ESD of its intentions to terminate the current lease agreement.

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On May 4, 2021, City Council inquired if the ESD would purchase the building and if the contract was negotiable. In addition, Council considered keeping the Recycling Center open on a limited basis and reassigning current personnel. Councilmember Coleman made a motion to table the item after it was agreed that City representatives would meet with the ESD Board of Directors on the matter. Councilmember Dildine seconded the action. The item was tabled.

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On May 13, 2021, Mayor Stell, Councilmen Coleman and Young, and City Staff met with ESD President O'Bannon and Board Member Kirk McElhinney. Collectively, the City agreed to present to City Council for its consideration and approval:

- a) A Resolution authorizing the closure of the City Recycling Center facility by September 30, 2021. As proposed, the facility would close by the end of the current fiscal year, and, in the interim, City Staff would be able to liquidate existing personal property (bailer, trailers, etc.), notify current commercial cardboard recycling customers of the closure, and include within the FYE 2022 budget a payoff amount for CAPCOG.

- b) A Resolution of the City Council of the City of Johnson City approving a Memorandum of Understanding between the City and the North Blanco Co. Emergency Services District No. 1 (ESD) regarding lease agreements.
- c) A Resolution of the City Council of the City of Johnson City approving and authorizing the execution of the First Amendment to the Lease Agreements between the City and the ESD.

Subparagraphs b and c above provide notice of lease termination effective September 30, 2021 and provide for the following lease amendments prior to termination:

#### ARTICLE 8. SOONER TERMINATION

Lessee, at Lessee's option, may terminate this Lease by written notice to Lessor at least thirty (30) days in advance of the termination date in the event it ceases the use of the leased property in connection with recycling. This agreement is null and void thirty (30) days after the Lessee terminates its recycling operation. Accordingly, all rights, duties, performance, and obligations by and/or owed to the other Party shall cease, and each Party shall be released and discharged from and against any all actions of any nature whatsoever now and in the future arising out of the Lease Agreement, including any activities undertaken pursuant to the Agreement.

#### Article 10. SURRENDER OF PREMISES

##### Removal of Property

10.01. Lessee shall, at its own cost and expense prior to September 30, 2021, remove all personal property from the premises, including, but not limited to, machinery, equipment, and supplies. Both parties agree that all buildings, structures, and/or flatwork existing on the premises as of September 30, 2021 will be left as-is, and the Lessee shall not be obligated to remove any buildings, structures, and/or flatwork.

#### FINANCIAL:

\$28,621.88 budgeted in Fiscal Year Ending 2022. Existing on-site personal property would be sold through auction.

#### ATTACHMENTS:

- A Resolution of the City Council of the City of Johnson City authorizing the closure of the City Recycling Center facility;
- A Resolution of the City Council of the City of Johnson City approving the Memorandum of Understanding between the City and the North Blanco Co. Emergency Services District No. 1 (ESD) regarding lease agreements; and

- A Resolution of the City Council of the City of Johnson City approving and authorizing the execution of the First Amendment to the Lease Agreements between the City and the ESD.

**SUGGESTED ACTION:**

Motion to approve a Resolution of the City Council of the City of Johnson City authorizing the closure of the City Recycling Center facility; a Resolution of the City Council of the City of Johnson City approving the Memorandum of Understanding between the City and the North Blanco Co. Emergency Services District No. 1 (ESD) regarding lease agreements; and a Resolution of the City Council of the City of Johnson City approving and authorizing the execution of the First Amendment to the Lease Agreements between the City and the ESD.

**PREPARED BY:** City Staff

**DATE SUBMITTED:** 5/25/21

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JOHNSON CITY  
AUTHORIZING THE CLOSURE OF THE CITY RECYCLING CENTER  
FACILITY.**

**Recitals**

**Whereas**, the City of Johnson City (“City”) has operated a recycling center facility (“Center”) since 1993; and

**Whereas**, the City Council leased two tracts of land for 99 years from the North Blanco County Emergency Medical Service (“EMS”) now the North Blanco County Emergency Services District No. 1 (“ESD”) for use for the Center; and

**Whereas**, the ESD desires to amend the lease term and to terminate the lease, with which the City Council concurs; and

**Whereas**, with termination of the lease, the City Council desires to close the Center.

**Now, therefore, be it resolved** by the City Council of the City of Johnson City that:

Section 1. The foregoing recitals are adopted as facts and incorporated fully herein.

Section 2. The City Council authorizes the closure of the Center by September 30, 2021.

Section 3. The City Council authorizes City Staff to take all necessary action for its closure including dismantling and sale of the equipment, and resolution of outstanding contractual provisions with the Capital Area Council of Governments from which the City received a Solid Waste Management Grant for facility costs for the recycling center.

Section 4. The closing may be extended pending disposal of the facility equipment.

Section 5. This Resolution shall be effective immediately upon adoption by the City Council.

PASSED AND APPROVED by the City Council of the City of Johnson City, Texas on the 1<sup>st</sup> day of June, 2021.

APPROVED:

\_\_\_\_\_  
Rhonda Stell  
Mayor

ATTEST:

\_\_\_\_\_  
Rick Schroder  
Chief Administrative Officer / City Secretary

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JOHNSON CITY APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE NORTH BLANCO COUNTY EMERGENCY SERVICES DISTRICT NO. 1 REGARDING LEASE AGREEMENTS.**

**Recitals**

**Whereas**, on September 8, 1993 and February 1, 2005, the City Council of the City of Johnson City (“City”) entered into two Lease Agreements (“Leases”) with the North Blanco County Emergency Medical Service (“EMS”), now the North Blanco County Emergency Services District No. 1 (“ESD”), for the leases of two parcels owned by the EMS for use as a recycling center by the City; and

**Whereas**, each lease is scheduled to expire August 31, 2092, or can be terminated sooner upon cessation of recycling activities by the City; and

**Whereas**, on June 1, 2021, the City Council approved the closure of the recycling facility by September 30, 2021; and

**Whereas**, the City Council and ESD have arranged for the termination of the leases in a Memorandum of Understanding (“MOU”) attached hereto as Exhibit “A” and incorporated fully herein.

**Now, therefore, be it resolved** by the City Council of the City of Johnson City that:

Section 1. The foregoing recitals are adopted as facts and incorporated fully herein.

Section 2. The City Council approves the terms in the MOU and authorizes the Mayor to execute the MOU on behalf of the City and to deliver copies of this Resolution to the ESD.

Section 3. This Resolution shall be effective immediately upon adoption by the City Council.

**PASSED AND APPROVED by the City Council of the City of Johnson City, Texas on the 1<sup>st</sup> day of June, 2021.**

APPROVED:

\_\_\_\_\_  
Rhonda Stell  
Mayor

ATTEST:

\_\_\_\_\_  
Rick Schroder  
Chief Administrative Officer / City Secretary

## MEMORANDUM OF UNDERSTANDING

between

The City of Johnson City and  
The North Blanco County Emergency Services District No. 1

This Memorandum of Understanding (“MOU”) is entered into by and between the City of Johnson City (“City”) and the North Blanco County Emergency Services District No. 1 (“ESD”), collectively “the Parties”.

**Whereas**, on September 8, 1993 and February 1, 2005, the City entered into two Lease Agreements (“Leases”) with the North Blanco County Emergency Medical Service (“EMS”) for the leases of two parcels owned by the EMS for use as a recycling center by the City. Both leases are scheduled to expire August 31, 2092; and

**Whereas**, the ESD assumed the Leases as Lessor from the EMS following creation and establishment of the ESD, and desires to amend the Leases for a shorter term to permit use of the tracts for ESD services; and

**Whereas**, the City concurs with the shorter term, but desires flexibility to permit it to fulfill and complete its obligations with the Capital Area Council of Governments from which the City received a Solid Waste Management Grant for facility costs for the recycling center; and

**Whereas**, the Parties desire to enter into this MOU to facilitate amendment to the Leases and termination of same in a feasible and economical manner suitable for each Party.

**Now, therefore**, it is mutually understood and agreed between the Parties as follows:

1. The City shall cease operation of the recycling facility on September 30, 2021.
2. In accordance with “Article 8. Sooner Termination” of the Leases, the City shall provide the ESD with a notice of termination for each Lease Agreement with a termination date no later than September 30, 2021.
3. Prior to termination, both Parties shall execute an amendment to the Leases with said amendment being to Section 10.01 of “Article 10. Surrender of Premises” which shall be revised in its entirety and amended to read as follows:

### Article 10. SURRENDER OF PREMISES

#### Removal of Property

10.01. Lessee shall, at its own cost and expense prior to September 30, 2021, remove all personal property from the premises, including, but not limited to, machinery, equipment, and supplies. Both parties agree that all buildings, structures, and/or flatwork existing on the premises as of September 30, 2021 will be left as-is, and the Lessee shall not be obligated to remove any buildings, structures, and/or flatwork.

4. Prior to termination, both Parties shall execute an amendment to the Leases with said amendment being to “Article 8. Sooner Termination” to add the following underlined text and to read as follows:

ARTICLE 8. SOONER TERMINATION

Lessee, at Lessee’s option, may terminate this Lease by written notice to Lessor at least thirty (30) days in advance of the termination date in the even it ceases the use of the leased property in connection with recycling. This agreement is null and void thirty (30) days after the Lessee terminates its recycling operation. Accordingly, all rights, duties, performance, and obligations by and/or owed to the other Party shall cease, and each Party shall be released and discharged from and against any all actions of any nature whatsoever now and in the future arising out of the Lease Agreement, including any activities undertaken pursuant to the Agreement.

5. Upon termination of the Leases, it is understood that each Lease Agreement shall become null and void as provided in, and in accordance with Article 8.

6. This MOU is effective as of the date of the last signature of the Parties through September 30, 2021 unless extended by written agreement of the Parties.

**In witness whereof**, the Parties execute this Agreement as of the last written date indicated below and in accordance with the Resolutions of the City Council of the City dated June 1, 2021, and the Board of Directors of the North Blanco County Emergency Services District No. 1 (formerly Emergency Medical Services) dated June \_\_\_\_\_, 2021, both attached as Exhibits “A” and “B”, respectively.

\_\_\_\_\_  
Rhonda Stell  
Mayor  
City of Johnson City, Texas

\_\_\_\_\_  
David O’Bannon  
President  
North Blanco Co. ESD No. 1

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

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

Attest:

\_\_\_\_\_  
Rick Schroder, City Secretary

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



RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JOHNSON CITY APPROVING AND AUTHORIZING EXECUTION OF THE FIRST AMENDMENT TO THE LEASE AGREEMENTS BETWEEN THE CITY AND THE NORTH BLANCO COUNTY EMERGENCY SERVICES DISTRICT NO. 1.**

**Recitals**

**Whereas**, on September 8, 1993 and February 1, 2005, the City Council of the City of Johnson City (“City”) entered into two Lease Agreements (“Leases”) with the North Blanco County Emergency Medical Service (“EMS”), now the North Blanco County Emergency Services District No. 1 (“ESD”), for the leases of two parcels owned by the EMS for use as a recycling center by the City; and

**Whereas**, each lease is scheduled to expire August 31, 2092; and

**Whereas**, the City and the ESD desire to amend the Agreements to facilitate termination of the leases for the parties.

**Now, therefore, be it resolved** by the City Council of the City of Johnson City that:

Section 1. The foregoing recitals are adopted as facts and incorporated fully herein.

Section 2. The City Council approves the *First Amendment to Lease Agreements of September 8, 1993 and February 1, 2005 between the City of Johnson City and the North Blanco County Emergency Services District No. 1*, attached hereto as “Exhibit A”, and incorporated fully herein for all intents and purposes.

Section 3. The City Council authorizes the Mayor to execute the *First Amendment* on behalf of the City and to deliver copies to the ESD.

Section 4. This Resolution shall be effective immediately upon adoption by the City Council.

PASSED AND APPROVED by the City Council of the City of Johnson City, Texas on the 1st day of June, 2021.

APPROVED:

\_\_\_\_\_  
Rhonda Stell  
Mayor

ATTEST:

\_\_\_\_\_  
Rick Schroder  
Chief Administrative Officer / City Secretary

**FIRST AMENDMENT TO LEASE AGREEMENTS**  
of September 8, 1993 and February 1, 2005 between  
The City of Johnson City and  
The North Blanco County Emergency Services District No. 1

This First Amendment (“Amendment”) to Lease Agreements (“Agreements”) is made and entered into by and between the City of Johnson City (“City”) and the North Blanco County Emergency Services District No. 1 (“ESD”), collectively “the Parties”.

**Recitals**

**Whereas**, the City entered into two Lease Agreements (“Agreements”) with the North Blanco County Emergency Medical Service (“EMS”), now the North Blanco County Emergency Services District No. 1 (“ESD”), for two parcels owned by the EMS, now ESD, for use as a recycling center by the City as follows:

- 1) Lease Agreement dated September 8, 1993;
- 2) Lease Agreement dated February 1, 2005; and

**Whereas**, each lease is scheduled to expire August 31, 2092; and

**Whereas**, the Parties desire to amend the Agreements to facilitate termination of the leases for the Parties.

**NOW THEREFORE**, in consideration of the mutual covenants, terms and conditions herein contained, and for other good and valuable consideration, the Parties agree to amend the Agreements as follows:

1. Recitals. The foregoing Recitals are incorporated herein for all purposes.
2. **Article 8. Sooner Termination** is amended to add the following underlined text and to read as follows:

**ARTICLE 8. SOONER TERMINATION**

Lessee, at Lessee’s option, may terminate this Lease by written notice to Lessor at least thirty (30) days in advance of the termination date in the even it ceases the use of the leased property in connection with recycling. This agreement is null and void thirty (30) days after the Lessee terminates its recycling operation. Accordingly, all rights, duties, performance, and obligations by and/or owed to the other Party shall cease, and each Party shall be released and discharged from and against any all actions of any nature whatsoever now and in the future arising out of the Lease Agreement, including any activities undertaken pursuant to the Agreement.

3. **Article 10. Surrender of Premises** Section 10.01 is revised in its entirety and amended to read as follows:

Article 10. SURRENDER OF PREMISES

Removal of Property

10.01. Lessee shall, at its own cost and expense prior to September 30, 2021, remove all personal property from the premises, including, but not limited to, machinery, equipment, and supplies. Both parties agree that all buildings, structures, and/or flatwork existing on the premises as of September 30, 2021 will be left as-is, and the Lessee shall not be obligated to remove any buildings, structures, and/or flatwork.

4. **Effect of First Amendment.** Except as specifically provided in this First Amendment, the terms of the original Agreements continue to govern the rights and obligations of the Parties, and all terms of the Agreements remain in full force and effect. In the event of conflict or inconsistency between this First Amendment and the Agreements, this First Amendment will control and modify the Agreements.

5. This **First Amendment** shall take effect as of the latest date indicated below.

**IN WITNESS WHEREOF**, the City and ESD have duly executed this First Amendment as of the latest dated signature below.

\_\_\_\_\_  
Rhonda Stell  
Mayor  
City of Johnson City, Texas

\_\_\_\_\_  
David O'Bannon  
President  
North Blanco Co. ESD No. 1

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

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

Attest:

\_\_\_\_\_  
Rick Schroder, City Secretary

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