

**REGULAR CITY
COUNCIL MEETING
PACKET**

Thursday, January 17, 2019

5:30 p.m.

- B. Executive Session pursuant to Texas Government Code, Section 551.074 (Personnel Matters) City Council will meet to deliberate the appointment, employment, evaluation, reassignment duties, discipline or dismissal of a public officer or employee: City Administrator Shawn Cox.

8. OPEN SESSION

Discussion and possible action resulting from Executive Session.

9. CONSENT AGENDA

The following item/s may be acted upon in one motion. No separate discussion or action is necessary unless requested by a Council member or citizen, in which event those items will be pulled from the consent agenda for separate consideration.

- A. Approval of minutes from the Regular City Council Meeting held January 3, 2019.
- B. Approval of Place One Council Member Mike McCullough's appointment of Tracey Dean to the Board of Adjustment.
- C. Approval of Place Four Council Member Gary Barchfeld's appointment of Travis Brown to the Board of Adjustment.
- D. Approval of Place Three Council Member Allison Davis's appointment of Peter Lingamfelter to the Planning and Zoning Commission.

10. CITY ADMINISTRATOR REPORT

Update regarding the status of the Central Wimberley Wastewater Project and other City projects *(City Administrator Shawn Cox)*

11. PUBLIC HEARINGS AND POSSIBLE ACTION

- A. Hold a public hearing and consider approval of the first reading of an ordinance amending Chapter 9 (Planning & Development Regulations) Article 9.03 (Zoning), Division 3 (District Regulations), Sections 9.03.090 & 9.03.091 (Lodging District Regulations) of the City of Wimberley Code of Ordinances; and providing for the following: findings of fact; a savings clause; a repealing clause; a severability clause; effective date and proper notice and meeting.
- B. Discuss and consider possible action regarding a request to operate a food service trailer at 411 FM 2325 in Wimberley, Texas. *(Brooke Burnett/Cactus Coffee, Applicant)*

12. DISCUSSION AND POSSIBLE ACTION

- A. Discuss and consider possible action to approve a bid in the amount of \$13,203.04 from Roadway Striping Company for the restriping of Carney Lane school zones and crosswalks. *(Public Works Superintendent John Provost)*
- B. Discuss and consider possible action to approve a bid in the amount of \$12,401.00 from Hays County for road repair to River Road and Blue Hole Lane. *(Public Works Superintendent John Provost)*

- C. Discuss and consider possible action to approve Ordinance No. 2019-02, ordering the General Election on Saturday, May 4, 2019, for the purpose of electing at-large three Council members for Place One, Place Three and Place Five for the City of Wimberley City Council. *(City Secretary Laura Calcote)*
- D. Discuss and consider possible action to approve a proposed Election Services Contract with the Hays County Elections Administrator to conduct the May 4, 2019 General Election for the City of Wimberley. *(City Secretary Laura Calcote)*
- E. Discuss and consider possible action to approve the first reading of Ordinance No. 2019-03, granting Texas Disposal Systems, Inc. its successors and assigns certain rights to operate and maintain solid waste and recycling collection and disposal routes and services within the City of Wimberley for a period of ten (10) years, providing an exclusive franchise, prohibiting the operation of any other residential or commercial solid waste and recycling collection business or entity, providing for certain rights, duties, terms, and conditions, providing for payment of franchise fees of twelve (12) percent of grantee's gross revenues, civil and criminal penalties not to exceed \$2,000, effective dates, severability and other provisions related to the grant of a solid waste and recycling franchise. *(City Administrator Shawn Cox)*
- F. Discuss and consider possible action to amend the City of Wimberley Governance Policy and Rules of Procedure. *(Place Two Council Member Craig Fore)*
- G. Discuss and consider possible action to appoint members to the Comprehensive Review Plan Committee. *(Place Four Council Member Gary Barchfeld)*
- H. Discuss and consider possible action concerning the reuse of reclaimed water from the Central Wimberley Wastewater Project at Blue Hole Regional Park, and its inclusion in the change of scope application to the Texas Water Development Board (TWDB) and the associated costs in the change of scope application to the TWDB. *(Place Three Council Member Allison Davis)*
- I. Discuss and consider possible action on legal expenditures. *(Place Three Council Member Allison Davis)*
- J. Discuss and consider possible action concerning Central Wimberley Wastewater Project change of scope plan costs. *(Place Three Council Member Allison Davis)*
- K. Discuss and consider possible action to fill a vacancy for Place Five on the Wimberley City Council by appointment until the next General Election in May 2019.

13. CITY COUNCIL REPORTS

- A. Announcements
- B. Future agenda items

14. ADJOURNMENT

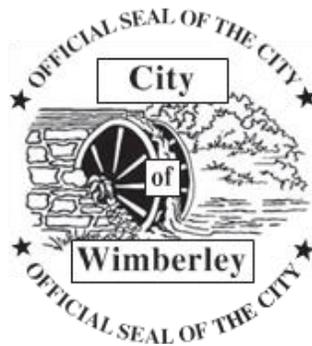
The City Council may retire into Executive Session at any time between the meeting’s opening and adjournment for the purpose of discussing any matters listed on the agenda as authorized by the Texas Government Code including, but not limited to, homeland security pursuant to Chapter 418.183 of the Texas Government Code; consultation with legal counsel pursuant to Chapter 551.071 of the Texas Government Code; discussion about real estate acquisition pursuant to Chapter 551.072 of the Texas Government Code; discussion of personnel matters pursuant to Chapter 551.074 of the Texas Government Code; deliberations about gifts and donations pursuant to Chapter 551.076 of the Texas Government Code; discussion of economic development pursuant to Chapter 551.087 of the Texas Government Code; action, if any, will be taken in open session.

CERTIFICATION

I hereby certify the above Notice of Meeting was posted on the bulletin board at Wimberley City Hall, a place convenient and readily accessible to the general public at all times, and to the City’s website, www.cityofwimberley.com, in compliance with Chapter 551, Texas Government Code, on Monday, January 14, 2019, by 5:30 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Laura J. Calcote
Laura J. Calcote, City Secretary

The City of Wimberley is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please contact City Secretary Laura Calcote at (512) 847-0025 two business days in advance of the meeting for appropriate arrangements.





AGENDA ITEM: Consent Agenda
SUBMITTED BY: Laura Calcote, City Secretary
DATE SUBMITTED: January 14, 2019
MEETING DATE: January 17, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

- A. Approval of minutes from the Regular City Council Meeting held January 3, 2019. (These will be sent separately from the meeting packet, and placed on the City’s website for review).
- B. Approval of Place One Council Member Mike McCullough’s appointment of Tracey Dean to the Board of Adjustment.
- C. Approval of Place Four Council Member Gary Barchfeld’s appointment of Travis Brown to the Board of Adjustment. (Application attached)
- D. Approval of Place Three Council Member Allison Davis’s appointment of Peter Lingamfelter to the Planning and Zoning Commission.

REQUESTED ACTION

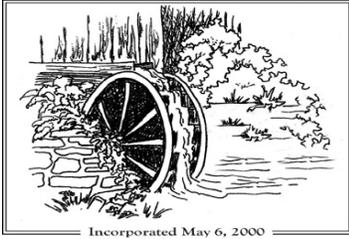
- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

- | | | | |
|-------------------|-------------------------------------|---------------------------|----|
| Budgeted Item | <input type="checkbox"/> | Original Estimate/Budget: | \$ |
| Non-budgeted Item | <input type="checkbox"/> | Current Estimate: | \$ |
| Not Applicable | <input checked="" type="checkbox"/> | Amount Under/Over Budget: | \$ |

STAFF RECOMMENDATION

Approval of Items A-D



City of Wimberley

221 Stillwater Drive, P.O. Box 2027, Wimberley, Texas 78676

Phone: (512) 847-0025 Fax: (512) 847-0422 Web: www.cityofwimberley.com

Application for Appointment to Board/Commission/Committee

Name of Board/Commission/Committee: _____

Nominated By: _____

Name: _____ Phone: _____ E-mail: _____

Physical Address: _____

Mailing Address
(If different than physical address): _____

Employer: _____ Position/Occupation: _____

Business Number: _____ Fax: _____

I reside: () Inside Wimberley's City Limits () Wimberley's ETJ () Outside ETJ

I am a registered voter in: () City of Wimberley () Hays County () Not Registered

Do you or your employer have any business or other dealings with the City of Wimberley, which might present a conflict of interest? () Yes () No

If "Yes" please explain: _____

Are you committed to devote the necessary amount of time to service on this Commission/Board/Committee and to attend all regularly scheduled meetings? () Yes () No

Would you consider serving on a different Commission/Board/Committee? () Yes () No

Please describe any qualifications, expertise, credentials or special interests that relate to your possible appointment. If you are not responding to a specific advertisement, please indicate the Board/Commission/Committee that you would prefer to serve on. Attach a separate sheet, if necessary.

Signature: _____

Date: _____

Note: Your application will be kept on file for 12 months and maintained under the Texas Open Records Act as public information. It is recommended that you submit a letter of interest and a brief resume with your application. Please submit any information to the City Secretary, City of Wimberley, P.O. Box 2027, 221 Stillwater Drive, Wimberley, Texas 78676.



AGENDA ITEM: City Administrator Report
SUBMITTED BY: Shawn Cox, City Administrator
DATE SUBMITTED: January 14, 2019
MEETING DATE: January 17, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

The City Administrator will provide an update to Council on the progress of the Central Wimberley Wastewater Project, including construction progress, expenditures to date, and other updates related to the project. Additionally, the City Administrator will provide an update on other City projects.

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

- Budgeted Item Original Estimate/Budget: \$
- Non-budgeted Item Current Estimate: \$
- Not Applicable Amount Under/Over Budget: \$

STAFF RECOMMENDATION



AGENDA ITEM: Lodging Code Amendment
SUBMITTED BY: Sandy I. Floyd
DATE SUBMITTED: 1/11/19
MEETING DATE: 1/17/19

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

The proposal is to:

- include “the sale of beer, wine and alcohol for in room consumption” for both Lodging Districts (L-1 and L-2) as a permitted use
- include “eating establishments: sit-down, including the sale of beer, wine, or alcohol for on-premise consumption” as a conditional use for L-1
- include “bars/taverns” as a conditional use for L-2

There are two (2) properties within the City zoned L-1 and four (4) properties within the City zoned L-2.

There have been no inquiries or responses for or against this proposed zoning amendment to date.

On January 10th, the Planning and Zoning Commission voted 5-0-1 to recommend approval of the amendments as presented.

REQUESTED ACTION

- | | |
|------------|-------------------------------------|
| Motion | <input checked="" type="checkbox"/> |
| Discussion | <input checked="" type="checkbox"/> |
| Ordinance | <input type="checkbox"/> |
| Resolution | <input type="checkbox"/> |
| Other | <input type="checkbox"/> |

FINANCIAL

- | | | |
|-------------------|-------------------------------------|---------------------------|
| Budgeted Item | <input type="checkbox"/> | Original Estimate/Budget: |
| Non-budgeted Item | <input type="checkbox"/> | Current Estimate: |
| Not Applicable | <input checked="" type="checkbox"/> | Amount Under/Over Budget: |

STAFF RECOMMENDATION



AGENDA ITEM: Temporary Structure – Food Trailer
SUBMITTED BY: Sandy I. Floyd
DATE SUBMITTED: 01/11/19
MEETING DATE: 01/17/19

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Cactus Coffee, Brooke Burnett, has requested installation of her food trailer at 411 FM 2325. Recent availability has presented Ms. Burnett with the opportunity to fill this space. Requested installation date is February 1, 2019.

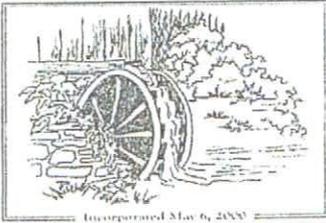
REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

- Budgeted Item Original Estimate/Budget:
- Non-budgeted Item Current Estimate:
- Not Applicable Amount Under/Over Budget:

STAFF RECOMMENDATION



City of Wimberley

221 Stillwater, P.O. Box 2027,
Wimberley, Texas, 78676
Phone: (512) 847-0025 - Fax: (512) 847-0422
www.cityofwimberley.com

RECEIVED
JAN - 8 2019
BY: CK # 598

Temporary Structure Application Form

Permit No.: T-19-001
Date: 1-8-2019
Staff Review: SIF
Council Hearing: 1-17-2019

Applicant: Brooke Burnett

Mailing Address: 8725 RR 12 City: San Marcos State: TX Zip: 78666

Phone: 512-415-8419 Email: brooke@cactus Coffeshop.com

Property Owner: Allison Seideman

Mailing Address: 411 FM 2325 City: Wimberley State: TX Zip: 78666

Phone: 512-497-9801 Email: wimberley subs and salcuds@gmail.com

Subject Property Address: 411 FM 2325 Wimberley TX 78676

Purpose/Use of Structure: Coffee trailer

Request Installation Date: 2/1/19 Request Removal Date: N/A

Will the temporary structure be served by electricity? YES NO

Will the temporary structure be served by water service? YES NO

If "YES" to either then an inspection is required for water and/or electrical service.

If service is provided through another meter attach a letter of permission.

Provide a site plan indicating location of temporary structure in relation to other structures, parking lots, property lines etc.

Permission from property owner is attached. YES NO N/A

Has a Mobile Food Establishment application been submitted? YES NO N/A

Temporary Structure Permit.....\$25.00 per structure
Inspections.....\$65.00 each

I certify that the information contained in this application is true and correct and that if any of the information provided is incomplete or incorrect the permit may not be issued or may be revoked by the City of Wimberley. I understand that all temporary structures or accessory uses shall be removed from the property at the expiration of the time period as defined in the permit unless another Temporary Structure Permit is obtained prior to expiration. I understand that a Certificate of Occupancy may be required and contractor information will be provided if applicable. Adequate parking, restroom, setback and additional requirements per City Ordinance No. 2012-007 & Ordinance No. 2016-007 will be verified by City staff.

Applicant:

Date: 1/8/19

PAID
JAN - 8 2019
BY: 598



AGENDA ITEM: Restriping of Carney Lane School Zones and Crosswalks
SUBMITTED BY: John Provost
DATE SUBMITTED: January 14, 2019
MEETING DATE: January 17, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Restripe Carney Lane school zones and cross walks with Thermo-plastic. Eliminate two cross walks and turn arrows and add arrows to two new speed humps and a new turn lane. Re-do all other remaining striping on Carney Lane to the where County Maintenance takes over.

Two bids attached, along with map of the restriping areas.

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

Budgeted Item	<input checked="" type="checkbox"/>	Original Estimate/Budget:	\$ 12,000
Non-budgeted Item	<input type="checkbox"/>	Current Estimate:	\$ 13,203.04
Not Applicable	<input type="checkbox"/>	Amount Under/Over Budget:	\$ 1,203.04 Over

STAFF RECOMMENDATION

Out of Road Maintenance Budget. Received two bids from qualified Striping Companies.
 Roadway Striping Company bid \$13,203.04.
 TRP Construction Group bid \$15,775
 Recommend Approval of \$13,203.04, Roadway Striping Company



3012 FM 621, Suite R
San Marcos, TX 78666

Office (512) 392 - 4717
Fax (512) 392 - 4743

Proposal Submitted To:

Company: City of Wimberley
Attn: John Provost
Phone: 512-847-0025
Fax:
E-mail: jprovost@cityofwimberley.com

Description of Job:

Project: Carny Lane Thermo Re-Stripe
Location: Carny Ln
City: Wimberley, Tx **WEB Request**
Bid Date: 10/1/2018
Revised: 1/10/2019 x **Call In Request**

VISIT OUR WEB SITE AT : www.roadwaystripinginc.com
NOTE : PRICES GOOD FOR 30 DAYS FROM BID DATE UNLESS CONTRACTED
Questions: mathaway@roadwaystripinginc.com

Item	Item Description	Estimator:	Unit	Est. Qty.	Unit Price	Total
WE PROPOSE TO PROVIDE THE FOLLOWING WORK						
	Re-Stripe Road Markings per Existing Layout					
	Removals Per Addendum Plan Supplied					
	Base Bid		LS	1	\$ 13,203.04	\$ 13,203.04
	REFL PAV MRK TY I (W) 4" (SLD)(60-100MIL)		LF	1850		
	REFL PAV MRK TY I (W) 24" (SLD)(60-100MIL)		LF	202		
	REFL PAV MRK TY I (Y) 8" (SLD)(60-100MIL)		LF	52		
	REFL PAV MRK TY I (Y) Double 4" (2SLD)(60-100MIL)		LF	1820		
	REFL PAV MRK TY I (W)(ONLY)(60-100MIL)		EA	3		
	REFL PAV MRK TY I (W)(Turn Arrow)(60-100MIL)		EA	3		
	REFL PAV MRK TY I (W)(Speed-Hump Arrow)(60-100MIL)		EA	4		
	ELIM EXT PAV MRK & MRKS (24")		LF	420		
	ELIM EXT PAV MRK & MRKS (Symbol)		EA	4		

Please take the time to read Contract and Warranty info below as well as our Includes and Excludes & Insurance.

**WEEKEND AND AFTER HOURS WORK
SUBJECT TO ADDITIONAL OVER TIME CHARGES.**

INCLUDES: Grinding Removals, Thermoplastic, Glass Beads, Labor.

1 Mobilization per scope of work. Additional Mobilizations are >> \$ 2,500.00 Ea

EXCLUDES: Bonds or Permits, Union Agreements, Monument Signs, Electrical Signs, Bike Racks, Pipe Bollards of any kind unless listed on proposed work provided, Off-Site Work, Water Reclamation, Traffic Control Items, Gaurdrail, Barricades, "Paid if Paid" Clauses, Landscaping, ADA Ramp Staining, Paint, Wheel Stops, Fire Lane Painting, ADA Signs, Fire Lane Signs, Sandblasting Removals, Power washing, Regulatory Signs, Raised Pavement Markers, Sealcoat, Hot Crack Fill, Cold Crack Fill, Etc...

PLEASE READ ALL CONDITIONS BELOW IN CONSIDERATION OF DRAFTING CONTRACTS, SUBCONTRACTS OR ACCEPTANCE OF THIS PROPOSAL. THIS PROPOSAL SHALL BECOME APART OF ANY CONTRACT

SUB TOTAL	\$	13,203.04
SALES TAX	0	
TOTAL	\$	13,203.04

SALES TAX
IF YOU ARE GOING TO COLLECT AND PAY SALES TAX OR THIS PROJECT IS TAX EXEMPT. PLEASE REMOVE SALES TAX AND FORWARD US THE TX SALES AND USE TAX RESALE CERTIFICATE. THANK YOU

Please Note there will be a 3% credit card fee if paid with Credit Card.

OR UNLESS ALL LISTED CONDITIONS ARE EXHIBITED AND AGREED UPON.
 YOU MAY ALSO SIGN THIS AS OUR CONTRACT PRIOR TO SCHEDULING WORK.

TERMS: Net 30 Days

NOTE SURFACE TO BE CLEAN, CLEAR AND DRY!

Warranties: Projects following the following criteria are Warrantable:

1. All Concrete Surfaces must have a cure time of 30 days or more.
 2. Asphalt Surfaces need to be 14 Days Cure time
 3. We must have 24 hours dry time after rain and 4 ours prior to rain.
 4. New Concrete surfaces must be power washed to insure that all curing compounds and dust are totally removed. We must be the ones to provide this service if you wish to obtain a written warranty from us. Please let us know if you need pricing from us.
 5. Our striping work is a perishable product when subjected to heavy construction work, equipment, Landscaping dirt and abuse. For these rerasons we cannot provide written warranty if heavy equipment and landscaping services are provided after we are completed with our work.
- To avoid these issues it is recommended that we are the last team in to help you have a turn key result for your customer.

WE ARE IN ACCEPTANCE OF THIS
 PROPOSAL AND YOU ARE AUTHORIZED
 TO PROCEED WITH WORK AS SHOWN

 Authorized Signature

 Authorized Signature
 MATTHEW HATHAWAY

**RSI IS A NON-UNION COMPANY
 INSURANCE COVERAGE INCLUDED**

GENERAL AGGREGATE	\$ 2,000,000.00	AUTO LIAB: Single limit:	\$1,000,000.00
PRODUCTS-COMP/OP AGG	\$ 2,000,000.00	EACH OCCURRENCE:	\$1,000,000.00
PERSONAL & ADV INJURY	\$ 1,000,000.00	AGGREGATE:	\$1,000,000.00
EACH OCCURRENCE	\$ 1,000,000.00	WORKERS COMP:	\$1,000,000.00
DAMAGE TO RENTED PREM.	\$ 100,000.00	E.L. Each Accident:	\$1,000,000.00
MED EXP (any one person)	\$ 5,000.00	E.L. Disease-E. Emp.	\$1,000,000.00
		E.L. Disease- Pcly Lmt	\$1,000,000.00

Excessive Umbrella Policies, Waivers of Subrogation are subject to additional Fees.

THIS PROPOSAL AND ALL CONDITIONS WILL BECOME A BINDING PART OF ANY CONTRACT OR SUBCONTRACT.

Contract Conditions and Qualifications:

1. If sales tax does not apply, please remit a tax exempt/resale certificate.
2. Additional charges will be incurred to add additional Insureds and/or a Waiver of Subrogation. You MUST notify us in advance if this is your company's requirement.
3. Roadway Striping, Inc. will not be responsible for damage to unmarked utilities or irrigation.
4. Roadway Striping, Inc. does not warranty against vegetation growth coming through any type of surface worked on.
5. Payment is due upon receipt of the invoice, or as otherwise indicated on contract.
6. A Notice of Intent will be mailed if payment not made within 30 days. Liens will be placed if payment is not received in 60 days.
7. Roadway Striping, Inc. will not be responsible for base failure unless stated otherwise.
8. All areas under construction will be barricaded.
9. Any damages caused by others crossing barricades will not be the responsibility of Roadway Striping, Inc.
10. Roadway Stiping Inc. is not responsible for the cost of any additional items not listed to be provided in this proposal. This proposal is our "Scope of Work" and any changes in the project cannot be assumed to be in our scope of work if we didn't list the change items in our proposal.
11. All additional work will be charged accordingly. However, no additional work will be completed without prior consent.
12. Based on the fluidity of fuel & Product costs, the pricing on this proposal is good for 30 days from the date of Proposal for Proposed Work.
13. General Contrator Contracts "Paid when Paid Clause". Please be aware that Roadway Striping Inc.,If deciding to Sign this agreement, will exercise all Preliminary Lien Notices and of Placing Liens on property as stated in the Texas Lien Rights Laws and filing times.
14. In all subcontracts please provide all owner information Bond Information, Phone #, Address, & Name of contact in charge of contract payment and administrations.
15. Roadway Striping Inc. owners or representatives shall not and cannot sign sub-contractor language refering to "Paid If Paid" Clauses. Please strike these references from contracts.
16. Move-ins are figured to be done with no conlictions with Contractor or Subcontractors. Move-in Fees will be assessed if our scope of work for the day (as planned with General Contractor) is obstructed, un-prepared, or inaccessible due to other contractors involvement.
17. Roadway Striping Inc. is not obligated to provide a indefinite amount of move-ins. Upon proposal acceptance, number of move-ins shall be stated and recognized by the General Contractor.
18. Customer is responsible for all legal/collection fees.
19. Change Orders must be made and received for any changes to the project before any work is preformed.





AGENDA ITEM: River Road and Blue Hole Lane Road Repair
SUBMITTED BY: John Provost
DATE SUBMITTED: January 14, 2019
MEETING DATE: January 17, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Road Repair, River Road just South of Lazy L Lane and Blue Hole Lane just outside the Park. Combined project to efficiently use the asphalt. On River Road, numerous large pot holes caused by poor drainage in area. Repair drainage clean out culvert and repave road to correct problem. On Blue Lane, repair and pave the open area just outside park. Bid from County under the inter-local agreement is \$12,401 for both jobs.

County bid attached.

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

Budgeted Item	<input checked="" type="checkbox"/>	Original Estimate/Budget:	\$
Non-budgeted Item	<input type="checkbox"/>	Current Estimate:	\$ 12,401
Not Applicable	<input type="checkbox"/>	Amount Under/Over Budget:	\$

STAFF RECOMMENDATION

Recommend approval. River Road is an emergency situation.

ESTIMATE FOR CITY OF WIMBERLEY (Blue Hole Patch)

January 8, 2018

<i>ROAD NAME</i>	<i>TIME</i>	<i>OPERATOR LABOR</i>	<i>EXPENSES</i>	<i>EQUIP USAGE & FUEL</i>	<i>EXPENSES</i>	<i>MATERIALS</i>	<i>EXPENSES</i>	
Blue Hole Patch 25'X26'X47'	1 DAY	6 MAN PAVING CREW \$34.50/HR/MAN	\$1,656	PAVING EQUIPMENT 4 HRS @ \$285/HR	\$1,140	ASPHALT 6 TONS \$55/TN	\$330	
River Road Patch/Drainage Clean out drainage and repair roadway	2 Days	6 MAN PAVING CREW \$34.50/HR/MAN	\$3,312	EQUIPMENT 8 HRS @ \$300/HR	\$2,400	ASPHALT 15 TONS \$55/TN	\$825	
						BLACK BASE 36 TONS \$58/TN	\$2,088	
						TACK OIL 50 GAL@\$3/GAL	\$150	
			\$4,968		\$3,540		\$3,393	PROJECT COST
								\$11,901
								ADMINISTRATIVE COST
ADMINISTRATIVE PROCESSING FEE			\$500					\$500
								TOTAL COST
								\$12,401



AGENDA ITEM: 2019 General Election
SUBMITTED BY: Laura Calcote, City Secretary
DATE SUBMITTED: January 11, 2019
MEETING DATE: January 17, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Ordinance No. 2019-02 orders the General Election for Saturday, May 4, 2019, for the purpose of electing at-large three Council members for Place One, Place Three and Place Five. The period for filing an application for a place on the ballot begins Wednesday, January 16, 2019, and ends Friday, February 15, 2019, by 5:00 p.m. Candidate packets and forms, along with other election information, can be found on the City’s website at <https://www.cityofwimberley.com/2019elections>.

Additionally, the City has previously contracted with Hays County for election services. The Fiscal Year 2019 allocates funds for the service. Attached to Ordinance No. 2019-02 is the Election Services Contract between the City of Wimberley and the Elections Administrator of Hays County. This Contract will serve as Exhibit “A” to Ordinance No. 2019-02 and will need to be executed accordingly. Election fees from the County have also been provided in the packet.

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

Budgeted Item	<input checked="" type="checkbox"/>	Original Estimate/Budget:	\$ 3,250.00
Non-budgeted Item	<input type="checkbox"/>	Current Estimate:	\$
Not Applicable	<input type="checkbox"/>	Amount Under/Over Budget:	

STAFF RECOMMENDATION

Approval of Ordinance No. 2019-02 and the Contract for Election Services between the City of Wimberley and Hays County.

ORDINANCE NO. 2019-02

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, ORDERING A GENERAL ELECTION TO BE HELD ON SATURDAY, MAY 4, 2019, FOR THE PURPOSE OF ELECTING AT-LARGE THREE CITY COUNCIL MEMBERS FOR PLACE ONE, PLACE THREE AND PLACE FIVE; AND PROVIDING DETAILS RELATING TO THE HOLDING OF SUCH ELECTION.

WHEREAS, the City of Wimberley desires to hold a General Election on Saturday, May 4, 2019, for the purpose of electing Council Members for Places One, Three and Five; and

WHEREAS, this ordinance is in furtherance of the public interest, for the good of government, peace and order of the City, and necessary and proper for carrying out the power granted by law to the City.

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

Section 1. In accordance with the general laws and Constitution of the State of Texas, a General Municipal Election is hereby called and ordered to be held on Saturday, May 4, 2019, at which general election all qualified voters of the City may vote for the purpose of electing at-large three (3) City Council Members for Place One, Place Three and Place Five, to serve the City of Wimberley, Texas.

Section 2. No person's name shall be placed upon the official ballot as a candidate for the place of City Council Member of the Wimberley City Council unless such person has filed a sworn application, as provided by Section 141.031 of the Texas Election Code, with the City Secretary at City Hall, 221 Stillwater Drive, Wimberley, Texas 78676 no sooner than Wednesday, January 16, 2019, and no later than five o'clock (5:00) p.m. Friday, February 15, 2019. Such application shall include the office the candidate is seeking and the place number of such position, where applicable. The City Secretary shall note on the face of each such application the date and time of its filing.

Section 3. Each voter shall vote for his or her choice for a candidate for each City Council Member place and shall vote for only one candidate for each City Council Member place.

Section 4. The present boundaries of the City, constituting Hays County Election Precincts 333, 335, 337 and 339 shall comprise one City election precinct. The polling place shall be open for voting from seven o'clock (7:00) a.m. until seven o'clock (7:00) p.m. at the following polling place, and the following are hereby appointed officers to conduct the above-described election, as outlined by the Contract for Election Services (Exhibit "A") between the City of Wimberley, Texas, and the County Contracting Officer of Hays County, Texas, as follows:

Polling Place
Wimberley Community Center
14068 Ranch Road 12
Wimberley, Texas 78676

Election Officer
Jennifer Anderson, Contracting Officer
Hays County, Texas

The City Secretary is hereby authorized and directed to provide a copy of this Ordinance to the County Contracting Officer as written notice of the appointment as required by Section 32.009 of the Texas Election Code.

Section 5. Voting shall be conducted by the County Contracting Officer utilizing voting machines and equipment supplied by the County Contracting Officer. All expenditures necessary to conduct the election, for the purchase of materials, and the employment of all election officials is hereby authorized in accordance with the Texas Election Code and in accordance with the provisions of the Contract for Election Services.

Section 6. The County Contracting Officer is hereby appointed Early Voting Clerk; the appointment of a deputy clerk or clerks for early voting by the County Contracting Officer shall be in accordance with Section 83.031 *et seq.* of the Texas Election Code. Early voting by personal appearance for the election shall commence on Monday, April 22, 2019, and end on Tuesday, April 30, 2019, at the Wimberley Community Center, 14068 Ranch Road 12, Wimberley, Texas 78676. Early voting by personal appearance shall be conducted on Monday, April 22, 2019, from seven o'clock (7:00) a.m. until seven o'clock (7:00) p.m., Tuesday, April 23, 2019, through Friday, April 26, 2019, from eight o'clock (8:00) a.m. until five o'clock (5:00) p.m., Saturday, April 27, 2019, from ten o'clock (10:00) a.m. until two o'clock (2:00) p.m., Monday, April 29, 2019, from seven o'clock (7:00) a.m. until seven o'clock (7:00) p.m. and Tuesday, April 30, 2019, from eight o'clock (8:00) a.m. until five o'clock (5:00) p.m. Under no circumstances shall the County Contracting Officer permit anyone to vote early by personal appearance at any time when such office is not open to the public. The Early Voting Clerk, in accordance with the provisions of the Texas Election Code, shall maintain a roster listing each person who votes early by personal appearance and each person to whom a ballot to be voted by mail is sent. The roster shall be maintained in a form approved by the Secretary of State.

Section 7. An Early Voting Ballot Board is hereby designated to canvass the early votes cast by mail and by personal appearance. The County Contracting Officer is hereby appointed as Presiding

Judge of the Early Voting Ballot Board. In accordance with Section 87.001, *et seq.*, Texas Election Code, said Early Voting Ballot Board Presiding Judge shall appoint such other members as provided in the Texas Election Code, Section 87.002(b).

Section 8. The candidate receiving the highest number of votes for City Council Member in each of the places to be filled at such election shall be declared elected to such place.

Section 9. The order in which the names of the candidates are to be printed on the ballot for the early voting period, and the order in which the names of the candidates are to be printed on the ballot for the general election, shall be determined by a drawing by the City Secretary, as provided by Section 52.094 of the Texas Election Code. The City Secretary shall post a notice of the date, hour and place of drawing. Such notice shall remain posted continuously for seventy-two (72) hours immediately preceding the scheduled time of the drawing; and personal notice shall also be given to any candidate who makes written request for such notice and furnishes to the City Secretary a self-addressed, stamped envelope. Each candidate involved in the drawing, or a representative designated by him or her, shall have a right to be present and observe the drawing.

Section 10. Notice of this election shall be given in accordance with the provisions of the Texas Election Code and returns of such notice shall be made as provided for in that Code. The Mayor shall issue all necessary orders and writs for such election and returns of such election shall be made to the City Secretary immediately after the closing of the polls.

Section 11. The election shall be held in accordance with the Texas Election Code and the Federal Voting Rights Act of 1965, as amended.

PASSED, APPROVED, and ADOPTED on this 17th day of January, 2019.

Susan Jagers, Mayor

ATTEST:

Laura J. Calcote, City Secretary

APPROVED AS TO FORM:

City Attorney



CONTRACT FOR ELECTION SERVICES

THIS CONTRACT FOR ELECTION SERVICES (this "Contract") is made and entered into by and between the **ELECTIONS ADMINISTRATOR OF HAYS COUNTY, TEXAS ("Contracting Officer")** and the **Local Political Subdivision** set forth on the signature page of this Contract (**the "LPS"**) pursuant to the authority under Section 31.092(a) of the Texas Election Code.

RECITALS

WHEREAS, the LPS expects to order and election during the term of this Contract and during any renewal term of this Contract (the "Election");

WHEREAS, the LPS desired that certain election services for the Election be provided by the Contracting Officer pursuant to Chapter 31, Subchapter D of the Texas Election Code and;

WHEREAS, the Contracting Officer and the LPS desire to enter into a contract setting out the respective responsibilities of the parties;

NOW, THEREFORE, the parties to this Contract agree as follows with respect to the coordination, supervision, and conduct of the election.

I. GENERAL PROVISIONS.

- A. The purpose of this Contract is to maintain consistency and accessibility in voting practices, polling places, and election procedures to best assist the voters of the LPS. For purposes of this Contract the term "Election" will include any resulting recount or election contest. It will also apply to and election to resolve a tie.
- B. The Contracting Officer is hereby appointed to serve as the LPS's Election Day Officer and Early Voting Clerk to conduct the Election for those areas of the LPS located in within the contracting jurisdiction. As Election Officer and Early Voting Clerk, the Contracting Officer will coordinate, supervise and conduct all aspects of the administering voting in connection with the election in compliance with all applicable law except as otherwise provided in the Contract.
- C. The LPS agrees to commit the funds necessary to pay for election-related expenses for the LPS's election.
- D. The Contracting Officer has the right to enter into agreements with other entities at any time and may require that authorities of LPSs holding elections on the same day in all or part of the same territory to enter into a joint election agreement as authorized in

Chapter 271 of the Teas Election Code. The LPS agrees to enter into a joint election agreement required by Hays County.

II. **RESPONSIBILITIES OF CONTRACTING OFFICER**. The Contracting officer shall be responsible for performing the following services and furnishing the following material and equipment in connection with the election:

A. **Nomination of Presiding Judges and Alternate Judges.** The Contracting Officer shall recommend appointment of Election Day presiding and alternate judges, central accumulation station judges, and the Early Voting Ballot Board (EVBB) presiding judge, all of which shall meet the eligibility requirements in Subchapter C of Chapter 32 of the Texas Election Code.

B. **Notification to LPS.** The Contracting Officer shall provide the LPS with the most up-to-date list of presiding and alternate judges three weeks before the statutory deadline to order the election.

C. **Notification to Presiding and Alternate Judges; Appointment of Clerks.**

1. The Contracting Officer shall notify each presiding and alternate judge of his or her appointment. The notification will also include the assigned polling station, the date of the election training(s), the date and time of the election, the rate of compensation, the number of clerks the judge may appoint, the eligibility requirements for election workers, and the name of the presiding or alternate judge as appropriate.

2. The election judge will make the clerk appointments in consultation with the Contracting Officer. If a presiding judge or the alternate judge does not speak both English and Spanish, and the election precinct is one subject to Section 272.002 and 272.009 of the Texas Election Code, the Contracting Officer shall ensure that a bilingual election clerk is appointed. The Contracting Officer shall notify the clerks of the same information that the judges receive under this section.

D. **Election Training.** The Contracting Officer shall be responsible for conducting election training for the presiding judges, alternate judges, clerks, and early voting deputies in the operation and troubleshooting of the direct record electronic (DRE) voting system and the conduct of elections, including qualifying voters, issuing ballot style codes, maintaining order at the polling location, and conducting provisional voting.

E. **Logic and Accuracy Testing.** In advance of Early Voting (including the sending of any mail ballots), the Contracting Officer, the tabulation supervisor, and the other members the

Contracting Officer designates for the testing board shall conduct all logic and accuracy testing in accordance with the procedures set forth by the Texas election Code and under guidelines provided by the Secretary of State's office. The Contracting Officer shall also be responsible for the publication of the required notice of such testing.

- F. **Election Supplies.** The Contracting Officer shall procure, prepare, and distribute to the presiding judges for use at the polling locations on Election Day (and to the Early Voting clerks during Early Voting) the following election supplies: election and early voting kits (including the appropriate envelopes, lists, forms, name tags, posters, and signage described in Chapters 51, 61, and 62, and subchapter B of chapter 66 of the Texas Election Code) seals, sample ballots, thermal paper rolls for use in the Judges Booth Controllers (JBC's), batteries for use in the JBC's, eSlates, labels for the electronic poll books, and all consumable type office supplies necessary to hold an election.
- G. **Registered Voters List.** The Contracting Officer shall provide lists of registered voters required by law for use on Election Day and for the Early Voting period.
- H. **Notice of Previous Polling Place.** The Contracting Officer shall post notices of a change in a polling place at the entrance to the previous polling location. Section 43.062 of the Texas Election Code provides that the notice shall state the location has changed and give the location of the new polling place.
- I. **Election Equipment.** The Contracting Officer shall prepare and distribute the direct Record Electronic (DRE) Voting System components from Hart Intercivic, Inc. ("Hart") for the election. This voting System includes the equipment referred to as "eSlates" and Judge's Booth Controllers" (JBCs). Each polling location will have at least one voting machine that is accessible to disabled voters and provides a practical and effective means for voters with disabilities to cast a secret ballot.
- J. **Ballots.** The Contracting Officer or designee shall be responsible for the preparation, printing, programming and distribution of English and Spanish ballots and sample ballots, including the mail ballots, based on the information provided by the LPS, including the names of the candidates, names of the offices sought, order of names on the ballot, propositions on the ballot, and the Spanish translation of the offices and any propositions. The ballot will be prepared in these formats: DRE, paper, auditory.
- K. **Early Voting.** In accordance with Sections 31.096 and 32.097(b) of the Texas Election Code, the Contracting Officer shall serve as the Early Voting Clerk for the election.
 - 1. The Contracting Officer shall supervise and conduct the early voting by mail and by personal appearance and shall secure personnel to serve as Early Voting Deputies.

2. The Contracting Officer shall receive mail ballot applications on behalf of the LPS. All applications for mail ballots shall be processed in accordance with Title 7 of the Texas Election Code by the Contracting Officer or deputies at the Records Building located at the Hays County Government Center at 712 S. Stagecoach Trail, San Marcos, Texas 78666. Applications for mail ballots sent to the LPS shall be promptly faxed to the Contracting Officer at (512) 878-6699, or emailed to elections@co.hays.tx.us for timely processing and then the original sent application forwarded to the Contracting Officer for proper retention.
3. Early voting ballots shall be secured and maintained at the Records Office at 712 S. Stagecoach Trail, San Marcos, Texas 78666. In accordance with Chapter 87 of the Texas election Code. The Early Voting Ballot Board shall meet at the same location unless posted differently.
4. Early Voting by personal appearance for the election shall be conducted during the hours and time period and at the locations as determined by the Contracting Officer in consultation with the LPS and in accordance with the Texas Election Code.

L. Election Day Activities.

1. The contracting Officer and staff shall be available from 6:00 am until the completion of the vote counting on Election Day to render technical support and assistance to voters and election workers.
2. The Contracting Officer and staff shall prepare and conduct Election Night intake of election equipment, supplies, and records.
3. The Contracting Officer and designee shall serve as central counting station manager and tabulation supervisor, counting the votes in conjunction with the Early Voting Ballot Board and the Central Counting Station judges.
4. Election Day polling locations are determined by the Contracting Officer in consultation with the LPS and in accordance with the Texas Election Code. The Contracting Officer shall arrange for the use of all polling places and shall arrange for the setting up of the polling location including tables, chairs and voting booths.

M. Election Night Reports. The contracting Officer shall prepare the unofficial and official tabulation of precinct results under Section 66.056(a) of the Texas Election Code. The unofficial tabulation of Early Voting precinct results and Election Day precinct results shall be made available to the LPS via email as soon as they are prepared and may be released

under law, but no earlier than 7:00 pm on Election Day. The tabulation reports may also be provided to other counties as necessary for the election. As soon as reasonably possible, the Contracting Officer will post all reports for public review on the Hays County Elections website at www.co.hays.tx.us/elections.

- N. **Provisional Votes/ Determination of Mail Ballots Timely Received under Section 86.007(d) of the Texas Election Code.** The Contracting Officer, serving as the voter registrar, shall retain the provisional voting affidavits and shall provide the factual information on each of the voters' status. The Contracting Officer shall reconvene the EVBB after the election within the time set forth in Section 65.051 of the Texas election Code for the purpose of determining the disposition of the provisional votes. At the same time, the EVBB will review mail ballots timely received under Section 86.007(d) of the Texas election Code to determine whether such will be counted and to resolve any issues with such ballots.
- O. **Canvass Material Preparation.** Promptly after determination of the provisional votes and resolution of any mail ballots, the Contracting Officer shall work with the EVBB and tabulation supervisor to tally the accepted provisional votes and resolved mail ballots, amend the unofficial tabulations, and submit new official tabulations to the LPS. These reports will serve as the canvass materials for the LPS.
- P. **Custodian of Election Records.** The election records will be submitted to the LPS except for those records that must be maintained by the Contracting Officer as Voter Registrar in accordance with Section 66.051 of the Texas Election Code. The Contracting Officer is hereby appointed the custodian of voted ballots (which in the case of the ballots cast on the DRE voting system consist of the DVD backup) and shall preserve them in accordance with Chapter 66 of the Texas Election Code and other applicable law. The Contracting Officer shall also maintain custody of the records pertaining to the operation of the JBCs and eSlates.
- Q. **Recount.**
1. The LPS shall advise the Contracting Officer if a recount is required by law or requested and the Contracting Officer and the LPS shall discuss how such recount is to be conducted. The LPS shall reimburse the Contracting Officer for the cost of such count which is not included in the original estimate/invoice.
- R. **Schedule for Performance of Services.** The Contracting Officer shall perform all election services in accordance and compliance with the time requirements set out in the Texas Election Code.

- S. **Contracting with Third Parties.** In accordance with Section 31.098 of the Texas Election Code, the Contracting Officer is authorized to contract with third parties for election services and supplies. The cost of such third-party services and supplies will be paid by the Contracting Officer and reimbursed by the LPS.
- T. **Department of Justice Preclearance for General Elections.** If required by law, any changes to the general conduct of voting in Hays County will be pre-cleared through the United States Department of Justice by the Contracting Officer with copies of the submission and response e-mailed to the LPS.

III. **RESPONSIBILITIES OF THE LPS.** The LPS shall perform the following responsibilities:

- A. **Applications for Mail Ballots.** The LPS shall date and stamp and then as promptly as possible fax to the Contracting Officer all applications for mail ballots that it receives. Promptly thereafter, the LPS shall deliver or send by mail the original mail ballot applications to the Contracting Officer.
- B. **Election Orders, Election Notices, and Canvass.** The LPS shall be responsible for the preparing, adopting, publishing, and posting all required election orders, resolutions, notices and other documents, including bilingual materials, evidencing action by the governing authority of the LPS necessary to the conduct of the election. The LPS shall be responsible for conducting the official canvass of the election.
- C. **Map/Annexations.** The LPS shall provide the Contracting Officer with an updated map and street index (including address Numbers) of its jurisdiction in and electronic or printed format and shall advise the contracting officer in writing of any new developments, annexations or de-annexations.
- D. **Department of Justice Preclearance for Special Elections.** If required by law, the LPS shall be individually responsible for obtaining appropriate preclearance from the United States Department of Justice for any special elections.
- E. **Ballot Information.** The LPS shall prepare the text for the LPS's official ballot in English and Spanish and provide the Contracting Officer as soon as possible at the end of the period for ordering the election or filing for candidacy. The ballot information shall include a list of proposition showing the order and the exact manner in which the candidates' name shall appear on the ballot. The LPS shall promptly review for correctness the ballot when requested by the Contracting Officer to do so prior to the finalization and shall approve by e-mail or by signature in person.

- F. **Precinct Reports to the Texas Secretary of State.** Based on information provided by the Contracting Officer, the LPS shall prepare and file all required precinct reports with the Texas Secretary of State.
- G. **Annual Voting Report.** The LPS shall be responsible for filing its annual voting system report to the Texas Secretary of State as required under Chapter 123 et seq. of the Texas Election Code.

IV. SPECIAL PROVISIONS RELATED TO ELECTION WORKERS

- A. **Number of Election Workers at Election Day Polling Locations.** It is agreed by the Contracting Officer and the LPS that there will be at least three election workers at each Election Day polling location: the presiding judge, the alternate judge, and at least one election clerk appointed by the presiding judge. The number of necessary clerks is derived from the number of elections at the poll and the number of registered voters at the poll.
- B. **Compensation for Election Workers.** The Contracting Officer shall compensate all election workers in accordance with the Contracting Officer's established compensation policies, in accordance with the Texas Election Code and using the rates set by the Hays County Commissioners Court for county elections. The Contracting Officer shall pay the workers and be reimbursed by the entities sharing the polling locations.

V. PAYMENT

- A. **Charges and Distribution of Costs.** In consideration of the joint election services provided by the Contracting Officer, the LPS will be charged a share of the election costs and an administrative fee. The costs distribution is set forth in the Joint Election Agreement. The cost estimate is set forth in the Cost Estimate.
- B. **Administrative Fee.** The Contracting Officer shall charge a fee equal to 10% of the LPS's share of the cost of the election or a minimum of \$75.00.
- C. **Equipment Rental Fee.** Per Section 123.032(d) of the Texas Election Code, the Hays County Commissioners Court has set the equipment rental fee at \$175 each per JBC and per eSlate. If the County acquires additional equipment during the term of the Contract, the charge for the use of the equipment may be reset by the Hays County Commissioners Court.
- D. **Payment.** The Contracting Officer's invoice shall be due and payable to the address set forth in the invoice within 30 days from the date of receipt by the LPS.

VI. TERM AND TERMINATION

- A. **Initial Term.** The initial term of the contract shall commence upon the last party's execution hereof and shall continue thereafter in full force and effect for one year, subject to the termination rights set forth herein.
- B. **Renewal.** Subject to the termination rights set forth herein, this contract shall be renewed annually.
- C. **Termination.** If either party wishes to terminate this contract for convenience or for cause, the party must provide not less than ninety (90) days' written notice to the other party and allow for discussion of the desired outcome and options to reach the desired outcome. In the event of termination, it is understood and agreed that only the amounts due to the contracting Officer for services provided and expenses incurred will be due and payable.

VII. MISCELLANEOUS PROVISIONS

- A. **Nontransferable Functions.** In accordance with Section 31.096 of the Texas Election Code, nothing in this Contract shall authorize or permit a change in:
 - 1. The authority with whom or the place at which any document or record relating to the election is to be filed;
 - 2. The officers who conduct the official canvass of the election returns;
 - 3. The authority to serve as custodian of voted ballots or other election records;
or
 - 4. Any other nontransferable function specified under Section 31.096 or other provisions of law.
- B. **Cancellation of Election.** If the LPS cancels its election pursuant to Section 2.053 of the Texas Election Code, the Contracting Officer shall be entitled to receive an administrative fee of \$75. The Contracting Officer shall submit an invoice for the administrative fee as soon as reasonably possible after the cancellation, and the LPS shall make payment therefore in a manner similar to that set forth in **V. Payment** above.
- C. **Contract Copies to Treasure and Auditor.** In accordance with Section 31.099 of the Texas Election Code, the Contracting Officer agrees to file copies of the Contract with the County Treasurer and the County Auditor of Hays County, Texas.

D. **Election to Resolve a Tie.** In the event that an election is necessary to resolve a tie vote, the terms of the Contract shall extend to the second election, except:

1. The LPS and the Contracting Officer will agree upon the date of the election and the early voting schedule subject to provisions of the election Code and with regard to other election conducted by the Contracting Officer.
2. The LPS will be responsible for any Department of Justice preclearance submission under Section 5 of the Federal Voting Rights Act.
3. An attempt will be made to use the election workers that worked in the first election; those poll workers will not have additional training provided by the Contracting Officer.
4. The cost of the election will be borne by the LPS; the Contracting Officer will work with the LPS on cost management.

E. **Amendment/Modification.** Except as otherwise provided, this contract may not be amended, modified, or changed in any respect except in writing, duly executed by the parties hereto. Both the Contracting Officer and the LPS may propose necessary amendments or modifications to this Contract in writing in order to conduct the election smoothly and efficiently, except that any such proposals must be approved by the Contracting Officer and the governing body of the LPS or its authorized agent, respectively.

F. **Severability.** If any provision of the Contract is found to be invalid, illegal, or unenforceable by a court of competent jurisdiction, such invalidity, illegality, or unenforceability shall not affect the remaining provisions of this Contract and parties to this Contract shall perform their obligations under this Contract in accordance with the intent of the parties to this Contract as expressed in the terms and provisions.

G. **Representatives.** For the purposes of implementing this Contract and coordinating activities, the Contracting Officer and the LPS designate the following individuals for submission of information, documents and notice:

For the Contracting Officer:

Jennifer Anderson
Elections Administrator, Hays County
712 S. Stagecoach Trail, Suite 1045
San Marcos, Texas 78666
Tel: (512) 393-7310

For the LPS:

Fax: (512) 878-6699
Email: janderson@co.hays.tx.us

Witness by my hand this the _____ day of _____, 20__.

Contracting Officer:

Jennifer Anderson, Elections Administrator
Hays County, Texas

Witness by my hand this the _____ day of _____, 20__.

Local Political Subdivision:

Name of Entity: _____

By: _____

Printed Name: _____

Official Capacity: _____

Signature: _____

THE COUNTY OF HAYS

Elections/Voter Registration
712 S. Stagecoach Trail, Ste. 1045
San Marcos, TX 78666-7751



Phone: (512) 393-7310
Fax: (512) 393-7315
www.co.hays.tx.us

Jennifer Anderson
Elections Administrator/Voter Registrar

ELECTION FEES

<u>EQUIPMENT</u>	<u>Fees</u>
Programming/Testing:	\$ SEE ATTACHED (Page 2)
Equipment Rental:	\$175 (\$5)
Public Notice for Testing:	\$150
Election Kits:	\$175
Equipment Transport (Truck Rental)	No Change
Election Judges	\$12/hr
Alternate Judges	\$10/hr
Election Clerks	\$9/hr
Early Voting Clerks	\$12/hr
Judge Delivery Fee	\$25 (\$15)
Central Count Personnel	\$12/hr
Early Voting Ballot Board	\$10/hr
Training Fee	\$9/hr
Security Central Count	\$20/hr
Tabulation Supervisor	\$25/hr
 <u>VOTING HISTORY</u>	
General Elections (All Pcts) (Hard Copy)	\$15.00
General Elections (All Pcts – emailed/disk/Dropbox)	\$5.00
 <u>MISCELLANOUS</u>	
Copies (per page)	\$.10
CD-RW Disk	\$1 .00

Programming Fees

Proposed Programming Changes: (Pricing includes programming, audio, proofs, testing, ballot layout and mail ballot processing)

1 to 4	\$ 500.00	\$25.hr (Both English and Spanish) - Audio
5-10	\$1,200.00	\$25.hr (Both English and Spanish) - Audio
11-20	\$1,250.00	\$25.hr (Both English and Spanish) - Audio



AGENDA ITEM: Ordinance No. 2019-03 – Texas Disposal Systems, Inc.
SUBMITTED BY: Laura Calcote, City Secretary
DATE SUBMITTED: January 14, 2019
MEETING DATE: January 17, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Attached is Ordinance No. 2019-03, granting Texas Disposal Systems, Inc., its successors and assigns, certain rights to operate and maintain solid waste and recycling collection and disposal routes and services within the City of Wimberley for a period of ten (10) years, providing an exclusive franchise, prohibiting the operation of any other residential or commercial solid waste and recycling collection business or entity, providing for certain rights, duties, terms, and conditions, providing for payment of franchise fees of twelve percent (12%) of grantee's gross revenues, civil and criminal penalties not to exceed \$2,000.00, effective dates, severability and other provisions related to the grant of a solid waste and recycling franchise. This will be the first of two readings of this Ordinance, since it imposes a fine/penalty. If the first reading is approved by City Council, the Ordinance will come back to for the second and final reading on February 7, 2019. The Ordinance caption will run in the Wimberley view on Thursday, January 24, 2019. See attached proof.

Also attached is a draft contract with TDS, which will be Exhibit "A" as referenced in the Ordinance.

REQUESTED ACTION

- Motion
- Discussion
- Ordinance

FINANCIAL

Budgeted Item	<input type="checkbox"/>	Original Estimate/Budget:	\$
Non-budgeted Item	<input type="checkbox"/>	Current Estimate:	\$
Not Applicable	<input type="checkbox"/>	Amount Under/Over Budget:	\$

STAFF RECOMMENDATION

Approval of the first reading of Ordinance No. 2019-03.

ORDINANCE NO. 2019-03

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, GRANTING TEXAS DISPOSAL SYSTEMS, INC., ITS SUCCESSORS AND ASSIGNS, CERTAIN RIGHTS TO OPERATE AND MAINTAIN SOLID WASTE AND RECYCLING COLLECTION AND DISPOSAL ROUTES AND SERVICES WITHIN THE CITY OF WIMBERLEY FOR A PERIOD OF TEN (10) YEARS, PROVIDING AN EXCLUSIVE FRANCHISE, PROHIBITING THE OPERATION OF ANY OTHER RESIDENTIAL OR COMMERCIAL SOLID WASTE AND RECYCLING COLLECTION BUSINESS OR ENTITY, PROVIDING FOR CERTAIN RIGHTS, DUTIES, TERMS, AND CONDITIONS, PROVIDING FOR PAYMENT OF FRANCHISE FEES OF TWELVE PERCENT (12%) OF GRANTEE'S GROSS REVENUES, CIVIL AND CRIMINAL PENALTIES NOT TO EXCEED \$2,000.00, EFFECTIVE DATES, SEVERABILITY AND OTHER PROVISIONS RELATED TO THE GRANT OF A SOLID WASTE AND RECYCLING FRANCHISE.

WHEREAS, the City of Wimberley ("City") is a municipal corporation organized under the laws of the State of Texas and, pursuant to the Texas Constitution and state law, possesses the power to protect and promote the public health, safety, and welfare, to regulate the use of the public rights-of-way and to issue and revoke licenses; and

WHEREAS, the City Council of the City of Wimberley ("City Council") may adopt an order, act, law or regulation not inconsistent with state law, that is necessary for the government, interest, welfare or good order of the City; and

WHEREAS, the City Council may adopt ordinances, rules or police regulations that are necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, the City of Wimberley ("City") owns or is the proprietor over public streets, rights-of-way, alleys, and other public property and acts as trustee and guardian for the benefit of City citizens; and

WHEREAS, the City has exclusive control over the public highways, streets and alleys of the City; and

WHEREAS, pursuant to the laws of the State of Texas, it is recognized and established that an incorporated municipality may make a reasonable, lawful charge for the granting of an exclusive franchise to a business or entity that engages in collection and disposal services related to solid waste and recycling; and

WHEREAS, the City Council has determined that the availability of solid waste and recycling collection and disposal services in the City will promote the public health safety, and general welfare of the residents of the City and would serve the public interest; and

WHEREAS, the City Council has determined that the availability of solid waste and recycling collection and disposal services in the City will discourage dumping of garbage and trash along the roadside, in roadside parks and at illegal dump sites; and

WHEREAS, Texas Disposal Systems, Inc. is now and has been engaged in waste and recycling collection and disposal services in the State of Texas; and

WHEREAS, Texas Disposal Systems, Inc. possesses management expertise, qualified personnel, and specialized equipment for the safe collection, handling, and disposal of solid waste and recycling; and

WHEREAS, the City Council finds that the public interest will be served by the granting of an exclusive franchise to Texas Disposal Systems, Inc. to provide solid waste and recycling collection and disposal services within the boundaries of the City of Wimberley, Texas.

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

SECTION 1. DEFINITIONS.

1.1 For the purposes of this Ordinance, when not inconsistent with the context, words, used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural, and the use of any gender shall be applicable to all genders whenever the sense requires. The words "shall" and "will" are mandatory and the word "may" is permissive. Words not defined in this Section 1 shall be given their common and ordinary meaning.

1.2 For the purposes of this Ordinance, the following words, terms, phrases and their derivations shall have the meaning given in this Section 1.2. Any term not defined herein shall have the meaning set out in the Agreement between Texas Disposal Systems, Inc., (hereinafter "TDS") and the City, attached hereto as Exhibit "A" and incorporated herein for all purposes.

1.2.1. Agreement – The Agreement between TDS and the City attached hereto as "Exhibit A" and incorporated herein for all purposes.

1.2.2. City Secretary – The City Secretary of the City of Wimberley, Texas.

1.2.3. Council or City Council – The City Council, the governing body, of the City of Wimberley.

1.2.4. Commercial Customer – An occupant of a Commercial Unit within the City limits of the City of Wimberley.

1.2.5. Commercial Unit – An improved property, located within the City limits of the City of Wimberley, other than a Residential Unit.

1.2.6. Effective Date – February ____, 2019, which is the date, this Franchise shall become effective.

1.2.7. Franchise – This Ordinance, and all rights and obligations established herein or as it may be amended from time to time.

1.2.8. Gross Revenues – All revenues derived directly or indirectly by TDS and including its affiliates, subsidiaries, parent, and any person or entity, if any, that TDS may subcontract with for services covered by the Agreement, from or in connection with the

operation of the service pursuant to this Ordinance. This term shall not include any taxes or fees on services furnished by TDS imposed directly upon any customer by the state, City or other governmental unit and collected by TDS on behalf of such governmental units.

1.2.9. Residential Customer – An occupant of a Residential Unit within the City limits of the City of Wimberley.

1.2.10. Residential Unit – An improved property which is used, or capable of being used, for domestic use by a single family, including a single-family dwelling, duplex, fourplex, townhouse, apartment or condominium unit. A Residential Unit shall be deemed occupied when either water or electric services are being supplied thereto. A townhouse, fourplex, duplex, or condominium dwelling, whether or single or multi-level construction, consisting of four or less contiguous or separate single-family Dwelling Units, shall be treated as a Residential Unit, except that each dwelling unit within any such Residential Unit shall be billed separately as a Residential Unit. Those Residential Units designed by the City staff to be served by a dumpster roll-off compactor shall not be included in this definition and shall be a Commercial Unit.

1.2.11. Rights-of-Way- All publicly owned, dedicated or maintained streets, avenues, easements, alleys, highways, sidewalks, bridges, and other similar means of public access in the City.

1.2.12. City – City of Wimberley, a municipal corporation located in Hays County in the State of Texas.

SECTION 2. GRANT OF FRANCHISE AND TERM.

2.1. There is hereby granted to TDS, an exclusive franchise to provide Residential and Commercial solid waste and recycling collection and disposal services in the City, as constituted as of the Effective Date, or as may hereafter be constituted, and TDS is hereby granted the exclusive right to provide solid waste and recycling collection and disposal services to any Residential or Commercial Customer within the City that requests such service; provided that all such work, activity and undertakings by TDS shall be subject to the terms and provisions of this Franchise and the Agreement; and provided further that nothing herein shall be construed to require or authorize TDS to exceed any rights granted herein or by the Texas Commission on Environmental Quality (TCEQ) or any other state or federal agency. TDS's use of City Rights-of-Way shall be subject to and in accordance with the City's policies and procedures governing said use. It shall be unlawful for any other solid waste and recycling collection or disposal company, entity or person to conduct Residential or Commercial solid waste and recycling collection services covered by the Agreement attached hereto as "Exhibit A." No other solid waste and recycling collection or disposal company, entity or person shall collect refuse or operate a solid waste and recycling collection business or charge a fee for the collection of refuse or recycling from any Residential or Commercial Customer within the corporate boundaries of the City of Wimberley, except as otherwise exempted in Section 7.1, from and after the Effective Date of this Ordinance.

2.2. The term of this Franchise shall be for a term of ten (10) years, beginning upon the Effective Date of the Agreement and ending ten (10) year(s) thereafter. The initial term of the Agreement shall automatically be extended for successive additional ten (10) year terms unless either party notifies the other party in writing, not less than ninety (90) days prior to the expiration of the initial term or of any successive renewal term, of its intentions to terminate the Franchise. Any such written notice shall be served by certified or registered mail, return receipt requested.

SECTION 3. OPERATION OF TDS WITHIN CITY LIMITS.

3.1. TDS is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this Franchise, provided that all services shall be performed with reasonable diligence, without unnecessary inconvenience to the public or individuals, and in compliance with the Agreement and any applicable Federal, State, or City ordinances, rules or regulations. It is not the intention of either the City or TDS to create any liability, right or claim for the benefit of third parties and this Franchise is intended and shall be construed for the sole benefit of the City and TDS.

3.2. The City reserves the right to lay, and permit to be laid, sewer, cable television, water, telephone, electric, and other lines, cables and conduits, and to do and permit to be done any other work that may be necessary from time to time in any public place occupied by TDS.

3.3 TDS is not precluded from commencing solid waste and recycling collection and disposal services prior to the Effective Date if Residential and Commercial Customers choose to contract for such services.

SECTION 4. COMPANY RULES AND REGULATIONS.

TDS shall provide solid waste and recycling collection and disposal services in compliance with this Franchise and the rights, duties, terms and conditions of the Agreement.

SECTION 5. FRANCHISE AND RENTAL FEES.

5.1 TDS is authorized to provide solid waste and recycling collection and disposal services within the boundaries of the City as such boundaries exist as of the Effective Date, and as they may be hereafter modified from time to time. Commercial and Residential Customers will receive a benefit from the City's granting of this Franchise to TDS through greater attention to customer service from City oversight, the addition of recycling and bulk item collection services, reduction in potential liability from disposal at pre-approved disposal sites, and fewer and more regulated refuse equipment on the City streets. TDS will receive and obtain material benefits and operating efficiencies from this Franchise and the accompanying rights to provide solid waste and recycling services without competition from other solid waste and recycling service providers. TDS is authorized to charge the rates for solid waste and recycling collection services in accordance with the rates for services listed on Attachment "A" of the Exhibit "A", which is attached hereto and incorporated herein for all purposes. Such rates may be amended from time to time in accordance with the Agreement. The City will incur significant and material costs and expenses in regulating, administering and carrying out actions necessary to give effect to this Franchise and thus, TDS shall, commencing on the Effective Date and continuing through the term of this Franchise, pay to the City twelve percent (12%) of TDS's Gross Revenues, excluding taxes, collected from any and all Residential and Commercial Customers and accounts that contract for such services within the corporate limits of the City as a Franchise Fee.

5.2. TDS is responsible for establishing service, billing, and collection of all Residential and Commercial accounts. TDS shall bill Residential Customers on the first of the month (in advance) of each quarter. TDS shall bill Commercial Customers on the first of each month (in advance) of each month. Payment of the ten percent (10%) Franchise Fee (excluding taxes) will be made to the City quarterly in accordance with the Agreement. A listing of Residential Customers and Commercial Customers, to include the Customer's, address, frequency of pickup, size of container or type of service and charges for same, shall accompany the Franchise Fee payment. The City shall have the right upon reasonable notice to TDS to request and inspect TDS's records to verify proper payment of Franchise Fees. The Franchise Fee shall be delivered to the City Secretary, or successor in function, together with a statement indicating the derivation and calculation of such payment. The statement shall be presented in the form of generally accepted accounting procedures. At all times, TDS shall cause accurate books and records of account to be maintained as are necessary to permit the verification of the amount of such Franchise Fee. TDS shall file such reports as are required by the Agreement with the City Secretary. If there is a change in law by any governing body having jurisdiction over solid waste and recycling collection and/or disposal that impacts the cost of solid waste and recycling disposal, either in a positive or negative manner, this adjustment may be passed on to the Customer, subject to prior approval by the City Council. TDS may propose increases in the rates of service in accordance with the procedures set forth Exhibit "A". Rates of service may not be increased without prior approval of City Council.

SECTION 6. ACCEPTANCE OF FRANCHISE BY TDS.

6.1. This Franchise shall not become effective unless accepted by TDS within thirty (30) days from the date of final adoption of this Ordinance, by filing with the City Secretary a properly executed copy of the Agreement attached hereto as Exhibit "A". When accepted by TDS, this Franchise shall be a duly executed Agreement by and between the City and TDS. In no instance shall this Ordinance become effective until the Agreement has been fully executed.

SECTION 7. ENFORCEMENT.

7.1 The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person, business, or entity that collects and or disposes of solid waste and recycling for a fee, payment, or other economic benefit or that performs solid waste and recycling services that TDS is exclusively granted the right to perform pursuant to the Agreement for a fee, payment or other economic benefit is in violation of this Ordinance and is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance. Provided however, that any person or entity that operates a lawfully registered transfer station, or any person or entity that contracts for the collection or disposal of hazardous waste, hazardous substances or materials, or any person or entity that collects and disposes of solid waste and recycling or material for which TDS does not have the franchise to collect and if such solid waste and recycling service is not covered by the Agreement attached hereto as Exhibit "A," the provision of such services shall not constitute a violation of this Ordinance. Provided further, any Residential or Commercial Customer that does not choose to contract with TDS for solid waste and recycling collection and disposal services shall not be deemed to be in violation of this Ordinance. Although Residential and Commercial Customers are not required to contract with TDS for collection and disposal services, Residential and Commercial Customers are prohibited from contracting with any other person, business or entity that performs or attempts to perform services covered by the Agreement.

7.2 Any person or entity violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding \$2,000.00. Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

7.3 Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance, with each day constituting a separate occurrence, and to seek remedies as allowed by law, including, but not limited to the following:

7.3.1. Injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and

7.3.2 a civil penalty up to \$1,000.00 a day when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice of acts committed in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and

7.3.3. other available relief.

SECTION 8. ANNEXATION.

The scope of this Franchise shall automatically expand upon annexation of territory by the City.

SECTION 9. SEVERABILITY.

If any section, paragraph, subdivision, clause, part or provision hereof shall be adjudged invalid, illegal or unconstitutional, the same shall not affect the validity hereof as a whole or any part or provision other than the part or parts held invalid or unconstitutional.

SECTION 10. CAPTIONS AND HEADINGS.

The use of captions or headings for the various sections of this Franchise are for convenience of parties only and do not reflect the intent of the parties. The rule of interpretation to resolve ambiguities in a contract against the party drafting such contract shall not apply to this Franchise.

SECTION 11. OPEN MEETINGS.

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, as required by the Open Meetings Act, Chapter 551, Texas Government Code.

SECTION 12. PUBLICATION.

The full caption of this Ordinance shall be published one (1) time in a weekly newspaper published within or in general circulation within the City and the expense of such publication shall be borne by the City. This Ordinance shall take effect only upon its acceptance by TDS within the time and manner herein above provided and publication, as may be required by governing law. In the event this Franchise is not accepted by TDS, this Ordinance shall expire and be and become null and void at midnight on the thirtieth (30th) day after date hereof.

SECTION 13. ENDORSEMENTS AND RECORDS.

The City Secretary is hereby authorized and directed to make appropriate endorsements, for the public records and convenience of the citizens over her official hand and the Seal of the City and on the form provided at the conclusion of this Franchise, of the date upon which this Ordinance is finally passed and adopted by the City Council; the date upon which the caption or notice of this Ordinance is published in the local newspaper, the date upon which this Ordinance shall expire if not first accepted by TDS and, if TDS shall accept this Franchise, the date of such acceptance by TDS.

SECTION 14. ENTIRE AGREEMENT; AMENDMENTS.

This Franchise and the attached Agreement contain the entire agreement between the parties with respect to the subject matter herein and all prior negotiations and agreements are merged herein and hereby superseded. This Franchise may not be amended or revised except upon agreement of both parties, which agreement shall be in writing and approved by the City Council.

SECTION 15. NO WAIVER.

15.1. The failure of the City or TDS, upon one or more occasions, to exercise a right or to require compliance or performance under this Franchise or any other applicable law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance, unless such right has been specifically waived in writing.

15.2. Waiver of a particular breach of this Franchise shall not be construed as a waiver of any other breach. No provision of this Franchise shall operate as a waiver by the City or TDS of any right guaranteed by the federal or state constitutions or other applicable law.

SECTION 16. ASSIGNMENT; TRANSFER; SALE OR CONVEYANCE BY COMPANY.

16.1. TDS shall not assign or transfer this Franchise or any of its rights and privileges granted hereunder to any person, without the prior written consent of the City expressed by Ordinance.

16.2. Subject to the provisions in Section 16.1, this Franchise shall be binding upon and inure to the benefit of the City and TDS and their respective successors and permitted assigns, and nothing express or mentioned in this Franchise is intended or shall be construed to give any other person any legal or equitable right, remedy or claim under or in respect of this Franchise or any provisions of this Franchise, and conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of such persons and for the benefit of no other person.

SECTION 17. NOTICES.

17.1. Any notice, request, instruction or other document deemed by any party hereunder to be necessary or desirable to be given to any other party shall be deemed delivered three (3) days after deposit in the U.S. mail if such written notification is sent by registered mail or certified mail, postage prepaid, with return receipt requested, correctly addressed as follows:

If to the City: City of Wimberley
P.O. Box 2027
Wimberley, Texas 78676

If to TDS: Texas Disposal Systems, Inc.
ATTN: Contract Administrator
P.O. Box 17126
Austin, Texas 78760-7126

or to the last address for notice, which the sending party has for the receiving party at the time of mailing. Either party may change its address for notice designating the new address in a written notice served upon the other party in the manner provided herein. Notices or other information delivered in any other manner will be deemed delivered if and when actually received.

SECTION 18. FORCE MAJEURE.

Each party shall be excused for failures and delays in performance of its respective obligations under this Franchise due to any cause beyond the control and without the fault of such party, including without limitation, any act of God, war, riot or insurrection, law or regulation, strike, flood, fire, explosion or inability due to any of the aforementioned causes to obtain necessary labor, materials or facilities. This provision shall not, however, release such party from using its best efforts to avoid or remove such cause and such party shall continue performance hereunder with the utmost dispatch whenever such causes are removed. Upon claiming any such excuse or delay for non-performance, such party shall give prompt written notice thereof to the other party, provided that failure to give such notice shall not in any way limit the operation of this provision.

SECTION 19. FINDINGS

All of the Whereas clauses are hereby found to be true and correct legislative and factual findings of the City of Wimberley and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

PASSED, APPROVED, and ADOPTED on this _____ day of _____, 2019.

Susan Jagers, Mayor

ATTEST:

Laura J. Calcote, City Secretary

APPROVED AS TO FORM:

City Attorney



**CONTRACT FOR MUNICIPAL SOLID WASTE COLLECTION
AND DISPOSAL SERVICES**

City of Wimberley
P.O. Box 2027
Wimberley, TX 78676

Presented By

TEXAS DISPOSAL SYSTEMS, INC.

Texas Disposal Systems, Inc.
P.O. Box 17126
Austin, Texas 78760
www.texasdisposal.com

Contact Name: Ray Bryant
Phone: (512) 421-1300
Fax: (512) 421-1325
Toll Free: (800) 375-8375

Effective
February 1, 2019

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CONTRACT

(To provide Refuse Collection and Disposal and Single Stream Recycling Services)

THIS CONTRACT is made and entered into on this 1st day of February 2019, by and between the City of Wimberley, of the State of Texas, (hereinafter called "the City"), and Texas Disposal Systems, Inc. (hereinafter called "the Contractor").

WITNESSETH:

In consideration of the following mutual agreements and covenants, it is understood and agreed by and between the parties hereto as follows:

1. EXCLUSIVE AGREEMENT

The Contractor is hereby granted the sole exclusive and mandatory contract, license and privilege to use the public streets, alleys, and thoroughfares within the territorial jurisdiction of the City to collect and dispose of Solid waste, Refuse and provide Recycling services; and shall furnish all personnel, labor, equipment, trucks, landfill, and all other items necessary to provide Residential and Commercial collection, removal, and disposal services, as specified, and to perform all work called for and described in the Contract Documents.

2. MANDATORY SERVICE

It is understood the City has the authority to ensure that solid waste management services are provided to all persons in its jurisdiction. The Contractor shall provide services in compliance with Agreement.

The Contractor shall provide not less than acceptable solid waste collection service to each occupied Residential Unit, utilizing acceptable containers, in the Contract area. Each occupied Residential Unit within the Contract area shall be automatically enrolled and shall become a subscriber to this service upon enactment of this Contract. The City shall, when requested, furnish the Contractor with a list of all City Customers located within the Contract area.

3. SCOPE OF WORK

The work under this Contract shall consist of the items contained in this document, including all the supervision, material, equipment, labor and all other items necessary to complete said work in accordance with the Contract Documents.

4. TYPE OF COLLECTION

- 4.1 Residential Refuse Pickup – Contractor shall provide curbside collection of Refuse from Residential Units one (1) time per week with 96-gallon cart and up to two (2) additional 30-gallon bags or bundles (not to exceed 35 pounds each).

Extra carts will be provided upon request at an additional fee, see “Attachment A” for rates. Extra carts and services will be directly billed to Residents.

Contractor may decline to collect any Residential Refuse not in cart provided.

- 4.2 Single Stream Recycling – Contractor shall provide curbside collection of Single Stream recycle materials one (1) time every-other-week with 96-gallon recycling cart only.

The Contractor will provide recycling collection services to all Residential Customers within the City for the following:

- Green, brown and clear glass
- Plastics #1-7 (except #6- Styrofoam)
- Aluminum, tin, and steel cans
- Paper Products: newsprint, cardboard, boxboard, junk mail, magazines, and office paper.

Any other materials for which a recycling market may exist and which the parties hereto agree can be added to the recycling program.

The Contractor will be responsible for marketing the collection of recyclable materials. If a material cannot be effectively marketed for recycling, the Contractor may eliminate that product from this program. If additional materials can be added to the program the Contractor will notify the City.

Contractor will collect the contents of the cart only at curbside.

Contractor may decline to collect any recycled material not in cart provided.

Contamination fees may apply for Residential and Commercial collections.

Extra carts will be provided upon request at an additional fee, see “Attachment A” for rates. Extra carts and services will be directly billed to Residents.

- 4.3 Special Collection - The Contractor shall make arrangements to provide special collection to those individuals with demonstrated disabilities requiring “homeside

collection.” Verification of the Customer’s eligibility will be determined by the City. Employees of the Contractor shall not be required to expose themselves to vicious animals in order to collect refuse and recycling.

- 4.4 Bulky Pickup – Contractor shall provide one (1) curbside bulky or brush waste collection(s) to each Residential Customer on the first regular residential solid waste collection day of each month. Bulky Waste shall be placed curbside on the street at an access point for the Collection vehicle. Additional bulky or brush waste collections will be provided upon request at an additional fee, see “Attachment A” for rates. Payment for additional collections will be collected by Contractor at the time of the request in advance of the pickup service.

The Contractor is not required to pick up refrigerators unless written evidence is posted in clear view of refrigerator and all other applicable appliances that all Freon has been removed by a certified refrigeration technician.

Each collection will restrict the volume collected to three (3) cubic yards per Residential Unit.

Yard waste must be bundled and tied and cut into four (4) foot lengths, not to exceed thirty-five (35) pounds per bundle. Limbs within the bundle must be no more than four (4) inches in diameter.

- 4.5 Commercial Collection – The Contractor shall provide Single Stream Recycling Collection and Solid Waste Disposal for all participating Commercial Units within the corporate boundaries of the City in accordance with the terms of this Agreement. The Contractor will establish commercial routes to service the Commercial Customers within the City. The following container sizes will be offered: 96 gallon carts, 2 yard, 3 yard, 4 yard, 6 yard, and 8 yard containers. Commercial Customers will determine the container size and pickups.

- 4.6 Roll Off Collection - The Contractor will offer Roll Off service for the City. The following container sizes will be offered: 20, 30, and 40 cubic yards.

Contractor is hereby granted the sole and exclusive rights by the City for permanent and temporary Roll Off services for collections and disposal of refuse (to include construction and demolition) within the territorial jurisdiction of the City.

No other solid waste and recycling collection and disposal company, entity or person shall be allowed to place a permanent or temporary Roll Off within the territorial jurisdiction of the City.

- 4.7 City Sponsored Cleanups – The Contractor shall provide four (4) Roll Off container(s) per year for cleanups as requested by the City where the costs are included in the Residential rates listed on “Attachment A”. If the City chooses to not include the cleanup option in the Contract, the rates will be set upon request by the Contractor. Each cleanup will consist of two (2) Roll Off containers and one (1) manned, rear-load trash truck delivered and removed at a date and location set in agreement between the City and the Contractor and as outlined in “Attachment C”.
- 4.8 Special Events – Services provided to the City for Special Events as part of this Contract are listed in “Attachment C” if applicable.
- 4.9 Disaster Services – The Contractor shall provide Solid Waste Collection and Disposal services, which may be required due to danger and destruction from flood, tornado or other similar disasters. This service shall be billed at an additional fee.
- 4.10 Hours of Operation – Collection of Residential Refuse shall be serviced from 7:00 a.m. to 7:00 p.m. on the same day. Exceptions to collection hours shall be effected only upon the mutual agreement of the City and the Contractor, or when the Contractor reasonably determines that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.
- 4.11 Holidays – The following shall be holidays for purposes of this Contract:
- New Year’s Day
 - Labor Day
 - Memorial Day
 - Thanksgiving Day
 - Independence Day
 - Christmas Day

The Contractor may decide to observe any or all of the above mentioned holidays by suspension of collection service on the holiday. Should Contractor observe a holiday, Contractor may for the remainder of the calendar week provide Collection service to Customers one (1) day after their normal collection day including Saturday if necessary.

- 4.12 Performance Standards – Performance goals shall be to enhance sanitary and aesthetic living conditions for City Residents; protect the environment; deliver consistent, reliable, convenient, safe services; provide for respectful, friendly, responsive communications with Customers; and to show a commitment to the community.

Performance standards shall include:

- a) The Contractor will make all reasonable efforts to collect waste and recycling except when the safety and health of Contractor's employees or the public is placed in danger.
- b) The Contractor will make every effort to maintain a consistent route schedule.
- c) The Contractor will not leave loose trash which, during collection, may fall in the streets or yards of the Residents, and we will make every reasonable effort to keep the community clean and free of litter.
- d) Drivers will be expressly forbidden to use their emergency brake to stop a moving vehicle (a practice that has caused street damage in the past).
- e) The Contractor will not use vehicles that leak oil, hydraulic fluid or other substances, or present an unhygienic or unsafe appearance. If there should be a leak from a Contractor's truck, Contractor will clean up the spill within two (2) business days of notification.

Note: Operational standards listed above are based on Rear-load service. The Contractor reserves the right to change the type of vehicle to service the City. The Contractor will notify the City in writing and performance standards will be adjusted based upon the capability of that type of vehicle.

- 4.13 Cart Delivery – Carts will be delivered within seven (7) business days of an order for service. Damaged carts will be replaced within the same time frame. Removal of carts will occur the next service day after notice is received.

The Customer is responsible for carts lost, stolen, damaged or destroyed by abuse at a cost of \$75 plus \$25 delivery fee.

Extra carts and services above and beyond the contracted services to the City shall be billed directly to the Residential Unit requesting the extra carts and/or services (see Attachment A).

- 4.14 Routes of Collection – The Contractor will establish collection routes. The Contractor may from time to time propose to the City for approval changes in routes or days of collection, which approval shall not be unreasonably withheld. Upon the City's approval of the proposed changes, the Contractor shall promptly give notice to the affected Customers at the Contractor's expense.

- 4.15 Collection Equipment – The Contractor shall provide an adequate number of vehicles for regular collection services. All vehicles and other equipment shall be kept in good

repair, appearance and in a sanitary condition at all times. Each vehicle shall have the identity of the Contractor clearly visible on each side.

4.16 Hauling – All Refuse hauled by the Contractor shall be so contained, tied or enclosed so that leaking, spilling or blowing are minimized.

4.17 Disposal – All Refuse collected for disposal by the Contractor shall be hauled to a legally permitted disposal site.

5. CUSTOMER RELATIONS

5.1 Office – The Contractor shall maintain an office or such other facilities through which they can be contacted. It shall be equipped with sufficient telephones and shall have a responsible person in charge from 8:00 am to 5:00 pm Monday through Friday. The telephone number of the office shall be prominently displayed on all of the Contractor's containers, carts, and trucks used in the City. If City selects the option to route Customer calls directly to Contractor's call center, Contractor will provide staff to respond to calls as required.

5.2 Point of Contact – Contact regarding legal issues shall be expressly between the Contractor and the City Manager or designee.

5.3 Delinquent and Closed Accounts – The Contractor shall discontinue collection services for any Customer as set forth in a written notice sent to it by the City. Upon further notification by the City, the Contractor will resume collection on the next regularly scheduled collection day. To the extent of the City's liability under applicable law and without waiving the City's governmental immunity, the City will indemnify and hold the Contractor harmless from any claims, suits, damages, liabilities or expenses resulting from the Contractor discontinuing service at any location at the direction of the City. Should the Customer be direct billed by the Contractor, the Contractor will set forth the amount of payment to be collected in accordance with the Contractor's nonpayment policy before reinstatement of services shall be initiated.

5.4 Auditing of Customers – On an as needed basis and at a time mutually agreeable to the City and the Contractor, the Contractor will provide the City with billing audits which will compare units being billed versus units serviced to make certain that customer billing is accurate. When the Contractor identifies units that are being serviced and are not being billed, the Contractor will provide the addresses of the units to the City as well as the type of service being provided and the date such service began or ended. The City will have sixty (60) working days to verify the list and provide a response to the Contractor. The City may ask for an extension as necessary to

complete the audit process. Units not being billed in error will be added to the billing. Units that should not be billed will be returned to the Contractor with the reason for not being added to the billing. Units not added will be removed from service.

5.5 Complaints – All complaints shall be made directly to the Contractor and shall be given prompt and courteous attention. In the case of alleged missed scheduled collections, the Contractor shall investigate and if such allegations are verified, the Contractor shall arrange for the collection of the Refuse not collected within two (2) business days after the complaint is received.

5.6 City Services – Services will be provided to the City by the Contractor at no charge to the City as a part of this contract, and as outlined in “Attachment C.”

Requests for new or additional services must be made in writing and will be provided to the City at the City’s expense.

6. TERMS OF CONTRACT

6.1 Effective Date – This Contract and performance of such Contract shall begin on February 1, 2019. All annual rate adjustments will follow “Attachment A”.

6.2 Start Date - Services may begin as late as sixty (60) days after the date this Contract is signed by both parties, but not before the effective date, based on availability of containers and delivery.

6.3 Term of Contract – The Contract shall be for a ten (10) year period beginning upon the Effective Date of the Contract and ending ten (10) year(s) thereafter. The initial term of the Contract shall automatically be extended for successive additional ten (10) year terms unless either party notifies the other party in writing, not less than ninety (90) days prior to the expiration of the initial term or of any successive renewal term, of its intentions to terminate this Contract. Any such written notice shall be served by certified or registered mail, return receipt requested.

6.4 Licenses and Taxes – The Contractor shall obtain all licenses and permits (other than the license and permit granted by the Contract) and promptly pay all taxes required by the City.

6.5 Compliance with Laws – The Contractor shall conduct operations under this contract in compliance with all applicable State and Federal regulations, including municipal ordinances.

- 6.6 Indemnity – The Contractor will indemnify and save harmless the City, its officers, agents, servants and employees for and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorney’s fees, arising out of the Contractor’s willful or negligent act or omission under this Contract, including Contractor’s officers, agents, servants, and employees; provided, however, that this indemnity shall not apply to any claims, demands, damages, costs, expenses and attorney’s fees arising out of the award of this Contract based upon any willful or negligent act or omission of the City, its officers, agents, servants and employees.
- 6.7 Non-Discrimination – The Contractor shall not discriminate against any person because of race, sex, age, creed, color, religion or national origin.
- 6.8 Transferability of Contract – No Assignment of the Contract or any right occurring under this Contract shall be made in whole or in part by the Contractor without the express written consent of the City. Such consent shall not be unreasonably withheld or delayed.
- 6.9 Ownership – Title to acceptable Garbage, Refuse, Recyclable Material, and Dead Animals shall pass to the Contractor when placed in Contractor’s collection vehicle, removed by the Contractor from a Container, or removed by Contractor from the Customer’s premises, whichever last occurs.
- 6.10 Exclusions – This Contract shall not cover hazardous, toxic or radioactive wastes or substances as currently or in the future defined as such by applicable Federal, State or Local Laws or regulations; and shall not be interpreted to prevent the removal of trash or rubbish by the generator of such trash or rubbish. The Contractor may contract, but shall not be required, pursuant to this Contract, for hauling human waste, hazardous waste, auto parts, rocks, concrete, sand, gravel, or dirt; provided that the Contractor shall be responsible for and the owner of any such material the Contractor agrees to collect or haul. The Contractor will be responsible for billing and collecting for these services.
- 6.11 Performance Cancellation – In the event the City alleges the Contractor has failed to meet the Performance Standards as outlined in the Contract, the City shall provide written notice to the Contractor by certified letter outlining each deficiency and setting up a hearing to discuss the issues in front of the City. At the hearing the City will advise the Contractor of each deficiency and place the Contractor on notice that it has a thirty (30) day cure period to correct these issues in the future. At the expiration of the cure period, a second hearing shall be held. If the Contractor has

corrected the issues outlined during the thirty (30) day cure period, no action will be taken against the Contractor.

6.12 Cancellation Costs - In the event the City terminates this contract or the relationship otherwise ends for any reason, the City shall pay the Contractor for performing the removal of carts and other waste containers, along with any reasonable wind-up costs relative to ending this Contract.

6.13 Contracting Parties – Any notice, demand, communication, or request required or permitted hereunder shall be in writing, except where otherwise herein designated by telephone, delivered in person or sent certified, return receipt requested, United States Mail, or by machine-confirmed facsimile followed by mailed copy, addressed set forth below:

If to the City: City of Wimberley
P.O. Box 2027
Wimberley, TX 78676

If to the Contractor: Texas Disposal Systems, Inc.
ATTN: Contract Administrator
P.O. Box 17126
Austin, TX 78760-7126
Email: contractadmin@texasdisposal.com

7. INSURANCE

The Contractor shall at all times during the Contract maintain in full force and effect General Liability, Worker’s Compensation, Public Liability and Property Damage Insurance. All insurance shall be maintained with insurers licensed and approved to do an insurance business in the State of Texas. Before commencement of work hereunder, the Contractor agrees to furnish the City with Certificates of Insurance or other evidence satisfactory to the City to the effect that such insurance has been procured and is in force.

For the purpose of the Contract, the Contractor shall carry the following types of insurance in at least the limits specified below:

<u>Coverage</u>	<u>Limits of Liability</u>
General Liability	\$1,000,000 per occurrence
Worker’s Compensation	Statutory Limits
General Aggregate	\$2,000,000 per occurrence

Automobile Liability	\$2,000,000 combined single limit
Excess Liability	\$5,000,000 per occurrence

8. BASIS AND METHOD OF PAYMENT

8.1 Rates – The fees provided in “Attachment A” by the Contractor will establish pricing for the first ten (10) year(s) of the Contract. The fees charged by the City to its Customers will be at the discretion of the City.

The Refuse Collection and Disposal and Single Stream Recycling charges provided by “Attachment A” shall include all disposal, fuel, and related costs.

8.2 Modification to rates

a) Contractor rates to the City are listed in “Attachment A”.

In any renewal term, contract rates will continue to increase annually by the same percentage as indicated in the preceding ten (10) year(s), unless alternative rates are agreed to by both parties.

b) The Contractor may petition the City, and being subject to City approval, at any time for additional rate and price adjustments due to unusual changes in its cost of operations, such as revised laws, ordinances, or regulations; increases in the cost of doing business, such as but not limited to increases in fuel, insurance, etc.

c) The rates will be adjusted by the City’s proportionate share of any changes in expenditures (whether capital or operational) required solely by Federal, State, or Local law, regulation, rule, ordinance, order, permit or permit condition that becomes effective after the Effective Date of this Contract, and that was not imposed as a penalty or sanction because of action or inaction of Contractor to comply with a legal requirement. The same shall exist for any fees, taxes or assessments imposed by Federal, State or Local government. The Contractor shall furnish the City with calculations showing the basis for any such adjustment at least sixty (60) days before implementation.

8.3 Contractor to Act as Collector – The Contractor shall submit quarterly statements to each Commercial and Residential unit for services provided by the Contractor pursuant to Section 5 including those such accounts that are delinquent. Billing will be in Advance.

The Contractor shall be entitled to payment for services rendered to each unit irrespective of whether or not the City collects from the Customer for such services. However, if services are required by law to be provided and for which services the Contractor or the City cannot charge or collect, as in Bankruptcy proceedings, then the Contractor shall not be entitled to payment for such services rendered.

8.4 Late Payments – Payments after the 30th day will accrue interest as provided in Chapter 2251 of the Texas Government Code as amended.

8.5 Franchise Fee – The Contractor shall pay a license, permit and franchise fee to the City during the term of this Agreement, equal to twelve percent (12%) of Contractor's gross receipts ("Franchise Fee"), from any and all participating Residential and Commercial Customers within the City, excluding taxes and which fee may be adjusted from time to time by the City Council. Payment of the Franchise Fee (excluding taxes) will be made to the City quarterly. Such payment shall be made to the City not later than the fifteenth (15th) day from the last day of the quarter. A listing of Residential Units and Commercial Units, to include Customers' address, frequency of pickup, size of container or type of service and charges for same, shall accompany the Franchise Fee Payment. The City shall have the right upon reasonable notice to the Contractor to request and inspect Contractor's records to verify proper payment of Franchise Fees.

9. NOTIFICATIONS

The City will provide the Contractor with direct contact information for each Customer, including; mailing address, email address, and phone number for the purpose of providing notifications. Contact information provided by the City will not be disclosed to any unrelated party for any purpose except as required by law and those directly related to the fulfillment of this Contract. The Contractor shall provide notice to each Residential Unit affected by route changes or holiday schedule changes. However, if the City opts not to provide Contractor with contact information as specified, Contractor will provide notice to the City and the City will notify each Residential Unit.

- 1) Route Changes – The Contractor shall give notice to the affected Customers at the Contractor's expense.
- 2) Holiday Schedule Changes – The Contractor shall make the schedule available to the affected Customers when holidays will affect a scheduled collection day, if different than as outlined in Section 4.11.

10. MARKETING

The Contractor will provide the following materials to the City at its own expense upon the signing of the Contract.

- 1) Any and all press releases to be mutually agreed upon by the Contractor and the City.

Any additional items requested by the City will be given to the City at the City's expense.

11. RIGHTS OF THE CONTRACTOR

The City, during the term of this Contract, shall not enter into any contract with a third party to obtain the services performed by the Contractor under this Contract and shall not suffer or permit any other party to provide similar service within the territorial jurisdiction of the City. This Contract shall be exclusive and mandatory with the Contractor.

12. RIGHTS OF THE CITY

The City shall be entitled to establish the amounts to be billed by the Contractor for the services to be provided pursuant to this Contract, to include, but not limited to, the Contract fees and charges payable to the Contractor.

This Contract shall not be construed or be interpreted as waiving any regulatory or police powers, except to the extent, if any, specifically provided herein.

13. AMENDMENTS

All provisions of the Contract Documents shall be strictly complied with and conformed to by the Contractor, and no amendment to this Contract shall be made except upon the written consent of the parties, which consents shall not be unreasonably withheld. No amendments shall be construed to release either party from any obligation of the Contract Documents except as specifically provided for in such amendment.

14. FORCE MAJEURE

The Contractor shall not be liable for the failure to perform its duties if such failure is caused by a catastrophe, riot, war, government order or regulation, strike, fire, accident, and Act of God, or similar or different contingency beyond the reasonable control of the Contractor.

15. SEVERABILITY AND VENUE

In the event that any provision or portion thereof of the Contract Documents shall be found to be invalid or unenforceable, then such provisions or portion thereof shall be reformed in

accordance with the applicable laws. The invalidity or unenforceability of any provision or portion of the Contract Documents shall not affect the validity or enforceability of any other provision portion thereof within the Contract Documents provided that, if the Contractor seeks to invalidate or void any term or provision of this Contract, this Contract shall, at the sole discretion of the City be terminated and become null and void. In the event the City should decide to terminate this Contract, for such reason or reasons, that decision by the City shall not be construed as a waiver by the City to pursue any of its rights at law or in equity to which it may be entitled or as an estoppel to City's pursuing such rights. Venue for any litigation based on this Contract shall be in a court of competent jurisdiction in Travis County, Texas and the parties agree that the Contract is partially performable therein.

DRAFT

IN WITNESS WHEREOF, the City and the Contractor, each representing that its signatory hereto has full authority to bind it hereto, have executed this Contract on the date hereinafter referred.

Dated this ____ day of _____ 2019 in the City of _____, Texas.

ATTESTED HEREUNTO:

City of Wimberley
Hays County, Texas

By: _____

Shawn Cox
City Administrator

Dated: _____

ATTESTED HEREUNTO:

Texas Disposal Systems, Inc.

By: _____

Ray Bryant
Municipal Account Supervisor

Dated: _____

ATTACHMENT A

RATE SHEET

City of Wimberley

Curbside Residential Refuse

Contractor will provide each residence with one (1) 96-gallon roll out cart for collection service for Refuse one (1) time per week. Refuse collection is limited to the contents of the cart and up to two (2) additional 30-gallon bags, weighing up to 35 pounds each.

Curbside Single Stream Recycling

Contractor will provide each residence with one (1) 96-gallon roll out cart for collection service for recycled materials one (1) time every-other-week. Recycled material is limited to the contents of the cart only.

Curbside Bulky/Pickup

Contractor shall provide one (1) curbside bulky or brush waste collection(s) to each Residential Customer on the first regular residential solid waste collection day of each month. Additional collections would be available at a cost determined by the Contractor.

The Contractor is not required to pick up refrigerators unless written evidence is posted in clear view of refrigerator and all other applicable appliances that all Freon has been removed by a certified refrigeration technician.

Each collection will restrict the volume collected to three (3) cubic yards per Residential Unit.

Yard waste must be bundled and tied and cut into four (4) foot lengths not to exceed thirty-five (35) pounds per bundle. Limbs within the bundle must be no more than four (4) inches in diameter.

Residential Rate:

Description	Effective Date 02/01/2019	Year 2 02/01/2020	Year 3 02/01/2021	Year 4 02/01/2022	Year 5 02/01/2023
Refuse and Recycle	\$23.50	\$24.21	\$24.93	\$25.68	\$26.45
Extra Cart	\$10.50	\$10.50	\$11.00	\$11.00	\$11.50

Description	Year 6 02/01/2024	Year 7 02/01/2025	Year 8 02/01/2026	Year 9 02/01/2027	Year 10 02/01/2028
Refuse and Recycle	\$27.24	\$28.06	\$28.90	\$29.77	\$30.66
Extra Cart	\$11.50	\$12.00	\$12.00	\$13.00	\$13.00

Commercial Trash Rates:

Description/ Frequency	Eff. Date 2/1/19	Year 2 2/1/20	Year 3 2/1/21	Year 4 2/1/22	Year 5 2/1/23	Year 6 2/1/24	Year 7 2/1/25	Year 8 2/1/26	Year 9 2/1/27	Year 10 2/1/28
96 Gallon - 1x	\$32.81	\$33.79	\$34.81	\$35.85	36.93	\$38.04	\$39.18	\$40.35	\$41.56	\$42.81
2 CY – 1x	\$81.00	\$83.00	\$86.00	\$89.00	\$91.00	\$94.00	\$97.00	\$100.00	\$103.00	\$106.00
3 CY – EOW	\$66.00	\$68.00	\$70.00	\$72.00	\$74.00	\$77.00	\$79.00	\$81.00	\$84.00	\$86.00
3 CY – 1x	\$87.00	\$90.00	\$92.00	\$95.00	\$98.00	\$101.00	\$104.00	\$107.00	\$110.00	\$114.00
4 CY – EOW	\$72.00	\$74.00	\$76.00	\$79.00	\$81.00	\$83.00	\$86.00	\$89.00	\$91.00	94.00
4 CY – 1x	\$96.00	\$99.00	\$102.00	\$105.00	\$108.00	\$111.00	\$115.00	\$118.00	\$122.00	\$125.00
4 CY – 2x	\$180.00	\$185.00	\$191.00	\$197.00	\$203.00	\$209.00	\$215.00	\$221.00	\$228.00	\$235.00
4 CY – 3x	\$264.00	\$272.00	\$280.00	\$288.00	\$297.00	\$306.00	\$315.00	\$325.00	\$334.00	\$344.00
6 CY - EOW	\$83.00	\$85.00	\$88.00	\$91.00	\$93.00	\$96.00	\$99.00	\$102.00	\$105.00	\$108.00
6 CY - 1x	\$110.00	\$113.00	\$117.00	\$120.00	\$124.00	\$128.00	\$131.00	\$135.00	\$139.00	\$144.00
6 CY – 2x	\$211.00	\$217.00	\$224.00	\$231.00	\$237.00	\$245.00	\$252.00	\$260.00	\$267.00	\$275.00
6 CY – 3x	\$304.00	\$313.00	\$323.00	\$332.00	\$342.00	\$352.00	\$363.00	\$374.00	\$385.00	\$397.00
8 CY – EOW	\$99.00	\$102.00	\$105.00	\$108.00	\$111.00	\$115.00	\$118.00	\$122.00	\$125.00	\$129.00
8 CY – 1x	\$132.00	\$136.00	\$140.00	\$144.00	\$149.00	\$153.00	\$158.00	\$162.00	\$167.00	\$172.00
8 CY – 2x	\$255.00	\$263.00	\$271.00	\$279.00	\$287.00	\$296.00	\$304.00	\$314.00	\$323.00	\$333.00
8 CY – 3x	\$377.00	\$388.00	\$400.00	\$412.00	\$424.00	\$437.00	\$450.00	\$464.00	\$478.00	\$492.00

Commercial Recycle Rates:

Description/ Frequency	Eff. Date 2/1/19	Year 2 2/1/20	Year 3 2/1/21	Year 4 2/1/22	Year 5 2/1/23	Year 6 2/1/24	Year 7 2/1/25	Year 8 2/1/26	Year 9 2/1/27	Year 10 2/1/28
96 Gallon – EOW	\$12.70	\$13.08	\$13.47	\$13.88	\$14.29	\$14.72	\$15.16	\$15.62	\$16.09	\$16.57
96 Gallon – 1x	\$28.58	\$29.44	\$30.32	\$31.23	\$32.17	\$33.13	\$34.13	\$35.15	\$36.20	\$37.29
2 CY – EOW	\$42.00	\$43.00	\$45.00	\$46.00	\$47.00	\$49.00	\$50.00	\$52.00	\$53.00	\$55.00
2 CY – 1x	\$70.00	\$72.00	\$74.00	\$76.00	\$79.00	\$81.00	\$84.00	\$86.00	\$89.00	\$91.00
3 CY – EOW	\$53.00	\$55.00	\$56.00	\$58.00	\$60.00	\$61.00	\$63.00	\$65.00	\$67.00	\$69.00
3 CY – 1x	\$75.00	\$77.00	\$80.00	\$82.00	\$84.00	\$87.00	\$90.00	\$92.00	\$95.00	\$98.00
4 CY – EOW	\$64.00	\$66.00	\$68.00	\$70.00	\$72.00	\$74.00	\$76.00	\$79.00	\$81.00	\$84.00
4 CY – 1x	\$83.00	\$85.00	\$88.00	\$91.00	\$93.00	\$96.00	\$99.00	\$102.00	\$105.00	\$108.00
6 CY - EOW	\$72.00	\$74.00	\$76.00	\$79.00	\$81.00	\$83.00	\$86.00	\$89.00	\$91.00	\$94.00
6 CY - 1x	\$95.00	\$98.00	\$101.00	\$104.00	\$107.00	\$110.00	\$113.00	\$117.00	\$120.00	\$124.00
8 CY – EOW	\$78.00	\$80.00	\$83.00	\$85.00	\$88.00	\$90.00	\$93.00	\$96.00	\$99.00	\$102.00
8 CY – 1x	\$116.00	\$119.00	\$123.00	\$127.00	\$131.00	\$134.00	\$139.00	\$143.00	\$147.00	\$151.00

Other Commercial Services:

Description	Eff. Date 2/1/19	Year 2 2/1/20	Year 3 2/1/21	Year 4 2/1/22	Year 5 2/1/23	Year 6 2/1/24	Year 7 2/1/25	Year 8 2/1/26	Year 9 2/1/27	Year 10 2/1/28
Casters & Lock Bars (Each Container)	\$19.00	\$20.00	\$20.00	\$21.00	\$21.00	\$22.00	\$23.00	\$23.00	\$24.00	\$25.00
Extra Pick Ups 96 Gallon Cart	\$24.00	\$25.00	\$25.00	\$26.00	\$27.00	\$28.00	\$29.00	\$30.00	\$30.00	\$31.00

Extra Pick Ups 2 CY	\$42.00	\$43.00	\$45.00	\$46.00	\$47.00	\$49.00	\$50.00	\$52.00	\$53.00	\$55.00
Extra Pick Ups 3 & 4 CY	\$49.00	\$50.00	\$52.00	\$54.00	\$55.00	\$57.00	\$59.00	\$60.00	\$62.00	\$64.00
Extra Pick Ups 6 CY	\$60.00	\$62.00	\$64.00	\$66.00	\$68.00	\$70.00	\$72.00	\$74.00	\$76.00	\$78.00
Extra Pick Ups 8 CY	\$72.00	\$74.00	\$76.00	\$79.00	\$81.00	\$83.00	\$86.00	\$89.00	\$91.00	\$94.00
Additional 40 CY Roll-Off Cost – City Cleanup	\$460.00	\$474.00	\$488.00	\$503.00	\$518.00	\$533.00	\$549.00	\$566.00	\$583.00	\$600.00
Additional Manned REL truck - \$ Hour, plus \$50 per ton disposal	\$170.00	\$175.00	\$180.00	\$186.00	\$191.00	\$197.00	\$203.00	\$209.00	\$215.00	\$222.00

Roll Offs:

Description	Eff. Date 2/1/19	Year 2 2/1/20	Year 3 2/1/21	Year 4 2/1/22	Year 5 2/1/23	Year 6 2/1/24	Year 7 2/1/25	Year 8 2/1/26	Year 9 2/1/27	Year 10 2/1/28
20 CY Open-Top Haul	\$460.00	\$474.00	\$488.00	\$503.00	\$518.00	\$533.00	\$549.00	\$566.00	\$583.00	\$600.00
30 CY Open-Top Haul	\$493.00	\$508.00	\$523.00	\$539.00	\$555.00	\$572.00	\$589.00	\$606.00	\$625.00	\$643.00
40 CY Open-Top Haul	\$525.00	\$541.00	\$557.00	\$574.00	\$591.00	\$609.00	\$627.00	\$646.00	\$665.00	\$685.00
20-29 CY Compactor Haul	\$477.00	\$491.00	\$506.00	\$521.00	\$537.00	\$553.00	\$570.00	\$587.00	\$604.00	\$622.00
30-34 CY Compactor Haul	\$503.00	\$518.00	\$534.00	\$550.00	\$566.00	\$583.00	\$601.00	\$619.00	\$637.00	\$656.00
35-39 CY Compactor Haul	\$525.00	\$541.00	\$557.00	\$574.00	\$591.00	\$609.00	\$627.00	\$646.00	\$665.00	\$685.00
40+ CY Compactor Haul	\$551.00	\$568.00	\$585.00	\$602.00	\$620.00	\$639.00	\$658.00	\$678.00	\$698.00	\$719.00
Delivery	\$199.00	\$205.00	\$211.00	\$217.00	\$224.00	\$231.00	\$238.00	\$245.00	\$252.00	\$260.00
Open-Top Container Rental Per Day	\$5.00	\$5.15	\$5.30	\$5.46	\$5.63	\$5.80	\$5.97	\$6.15	\$6.33	\$6.52
Compactor Rental	varies	varies	varies	varies	varies	varies	varies	varies	varies	varies

Miscellaneous City Services:

Description	Eff. Date 2/1/19	Year 2 2/1/20	Year 3 2/1/21	Year 4 2/1/22	Year 5 2/1/23	Year 6 2/1/24	Year 7 2/1/25	Year 8 2/1/26	Year 9 2/1/27	Year 10 2/1/28
Roll Off Services	City will receive 20% discount off of scheduled pricing above.									
Rear load with 2 employees - \$ per hour with (4) hour minimum charge. Plus Disposal per ton	\$175.00	\$180.00	\$186.00	\$191.00	\$197.00	\$203.00	\$209.00	\$215.00	\$222.00	\$228.00
Bulky Pickup – per each 3 CY or partial CY on call	\$45.00	\$46.00	\$48.00	\$49.00	\$51.00	\$52.00	\$54.00	\$55.00	\$57.00	\$59.00
	\$35.00	\$36.00	\$37.00	\$38.00	\$39.00	\$41.00	\$42.00	\$43.00	\$44.00	\$46.00

DRAFT

ATTACHMENT B

DEFINITIONS

1. Acceptable Container – Carts or containers provided by Contractor.
2. Acceptable Waste – Waste produced at a Residential or Commercial unit other than extraordinary amounts produced due to natural or man-made disasters, but not including hazardous waste, dead animals in excess of ten (10) pounds, construction waste, ammunition, hot ashes, tires, stumps, or other waste prohibited in a municipal solid waste landfill.
3. Building Material – Any material such as lumber, brick, plaster, gutters or other substances accumulated as a result of repairs or additions to existing buildings, construction or new buildings or demolition of existing structures.
4. Bulky Waste – Waste that includes sofas, stoves, refrigerators, water tanks, washing machines, dryers, air conditioners, sinks, toilets, furniture, and other waste materials and appliances (certified where applicable as Freon-free), and like items other than construction debris, or stable matter with weight or volumes greater than allowed in approved bins or containers, as the case may be or that can be loaded by one (1) person at curbside.
5. Bundle – Tree, shrub and brush trimmings or newspaper and magazines securely tied together, forming an easily handled package not exceeding four (4) feet in length, three (3) inches in diameter, or forty (40) pounds in weight. Limbs within the bundle must be no more than four (4) inches in diameter.
6. Carts – A wheeled receptacle with a capacity not to exceed ninety-six (96) gallon capacity; constructed of plastic, metal and/or fiberglass, designed for automated or semi-automated solid waste collection systems, and having a lid. Carts will be provided with ownership retained by the Contractor, as required in the Contract.
7. Collection – The practice of picking up municipal solid waste and/or recycling and/or composting using carts and containers with vehicles of safe design and construction and hauling municipal solid waste from the collection site to properly permitted or authorized facility and operated disposal site(s) as determined by the Texas Commission on Environmental Quality (TCEQ).

8. Commercial Unit – All commercial buildings or premises, including retail, wholesale, institutional, religious, governmental or other non-residential establishment, at which Garbage, Trash, Refuse or Recycling may be generated, having a physical address within the corporate limits of the City. All Customers and accounts that are not a Residential Unit.
9. Commodity – Materials that can be sold in a spot or future market for processing and use or reuse.
10. Complaint – A communication from a Customer to Contractor or Entity concerning service, which upon investigation by the Contractor or the City, is determined to be correct and shall prompt some action by the Contractor or the City.
11. Compost – Green waste, yard waste, soiled paper, tree limbs no longer than four (4) feet.
12. Construction Debris Waste – Waste building materials resulting from construction, remodeling, repair or demolition operations.
13. Construction Site – Any location, lot, site or area in the Entity upon which building, remodeling or construction is being performed.
14. Container (Commercial/Industrial) – A metal receptacle designed to be lifted and emptied mechanically for use only at Commercial and Industrial Unit(s). No less than two (2) cubic yards nor larger than eight (8) cubic yards.
15. Contract- The agreement for Solid Waste Collection and Disposal Services.
16. Contract Area – The area within the bounds of the Entity at the date of this Contract and any other areas that may be incorporated by the Entity during the term of this contact.
17. Contract Year – Each 365 or 366 day period commencing upon the Effective Date of the Contract and each anniversary thereafter and ending the penultimate day prior to the next such anniversary date.
18. Contractor – Texas Disposal Systems, Inc.

19. Customer – An occupant of a Residential Unit or Commercial Unit who generates Refuse or a Commercial or Industrial occupant who is disposing of construction debris or solid waste through our Roll Off services.
20. Dead Animals – Animals or portions thereof equal to or greater than ten (10) pounds, that have expired from any cause, except those slaughtered or killed for human use and properly placed in an acceptable container, must be disposed of separate from this Contract.
21. Disposal Site – A Refuse depository licensed and permitted by the State of Texas selected for use by the Contractor, including, but not limited to Texas Type I sanitary landfills, transfer stations, incinerators, and waste processing/separation centers licensed, permitted or approved to receive for processing of final disposal of Refuse, garbage, bulky waste, brush construction debris, dead animals and Commercial and Institutional waste by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits and approvals.
22. Effective Date – The date the Contract comes into effect pursuant to Section 7.1.
23. Entity – The City named herein.
24. Garbage – Any and all dead animals of less than ten (10) pounds in weight, except those slaughtered for human consumption; every accumulation of waste (animal, vegetable, and/or other matter) that results from the preparation, processing, consumption, dealing, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal, vegetable or other matter (including, but not by way of limitation), that are used in tin cans and other food containers; and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of Bulky Waste, Construction Debris, Dead Animals, Hazardous Waste, Rubbish or Stable Matter.
25. Hazardous Waste – Any chemical, compound, mixture, substance or article which is designated by the Environmental Protection Agency (EPA) under the Resource Conservation Recovery Act, 42 U.S.C. Section 1002, et. Seq., or regulated as toxic under the Toxic Substances Control Act, 15 U.S.C.A. Section 2601 et. Seq., regulations promulgated there under or appropriate agency of the State, to be hazardous or toxic as defined by, or pursuant to Federal or State Law. This term does not include small

quantity generator of household hazardous waste, as defined by Federal or State Law. For purposes of this Contract, the term Hazardous Waste shall also include motor oil, gasoline, paint and paint cans.

26. Industrial Refuse – All non-hazardous waste materials that are a by-product or generated from a manufacturing process.
27. Industrial Unit – All manufacturing Customers whose solid wastes are (i) compacted by industrial sized compactors and stored in containers for hauling to the disposal site, or (ii) processed by dust collection units containers for hauling to the disposal site or (iii) collected for disposal with a frequency of more than one (1) time per week, having a physical address in the Entity and not a Residential or Commercial Unit.
28. Landfill – A sanitary landfill of the Contractor’s selection permitted by the State of Texas, that is operated and maintained in compliance with the applicable law.
29. Municipal Solid Waste – All non-hazardous (as defined by CERCLA and other acceptable laws) and non-special (See Special Waste definition) solid waste material including unwanted or discarded waste material in a solid or semi-solid waste, including but not limited to, Garbage, Ashes, Refuse, Rubbish, Waste Materials, Brush, Paper, Plastic, Yard Waste (including brush, tree trimmings, and Christmas trees), discarded Appliances, Home Furniture, and furnishings, provided that such material must be of type and consistency to be lawfully accepted at the Sanitary Landfill under the applicable federal, state and local laws, regulations and permits governing each.
30. Multi-Family Dwelling – Any single structure occupied by more than two families.
31. Premises – All public and private establishments including individual residences, all multi-family dwellings, Residential care facilities, hospitals, schools, businesses, other buildings or vacant lots.
32. Recycling – “Recycle” or “Recycling” means any process or portion thereof by which solid waste or materials which would otherwise become solid waste are separated, collected and processed for reuse or returned to use or to market in the form of raw materials or products. Includes green, brown, and clear glass; plastics #1-#7 (except Styrofoam); aluminum, tin, and steel cans; and newsprint, cardboard, boxboard, junk mail, magazines, and office paper.

33. Refuse – This term shall refer to all garbage, rubbish, bulky waste, construction debris and stable matter generated by Residential, Commercial or Industrial units, unless the context otherwise requires.
34. Residential Refuse – All garbage and rubbish generated by a producer at a Residential Unit.
35. Residential Unit – A dwelling within the Contract Area occupied by a person or a group of persons comprised of not more than two (2) families. A Residential Unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto.
36. Roll Off – A unit varying in capacity between fourteen (14) and forty (40) cubic yards which is used for collecting, storing, transporting building materials, business trash, Industrial waste, Refuse or Yard Waste. Not all container sizes are available in all service areas. The unit may be of the open or closed variety. The distinguishing feature of the detachable container is that it is picked up by a specially equipped truck and becomes an integral part of transporting the waste material to the final disposal site.
37. Rubbish – Non-putrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials; combustible rubbish includes all waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, excelsior, furniture, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible pulp, ashes, cinders, floor sweepings, and other products, such as are used for packaging, or wrapping; noncombustible rubbish includes crockery, glass, tin cans, aluminum cans, metal furniture, mineral or metallic substance.
38. Special Waste – Any waste material including but not limited to, waste discarded from a non-residential source from an industrial process (including process sludge); waste from a pollution control process (e.g., baghouse dust, treatment plant sludge, filter cake, sedimentation pond cleanout, etc.); waste container free liquids (free liquid wastes are those wastes which fail the paint filter test prescribed by the United States Environmental Protection Agency method 9095); residue and debris from the cleanup of a spill of any size of a chemical substance or commercial product or a waste listed previously or afterward; contaminated residuals from the cleanup of a facility generating, storing, treating, recycling, or disposing chemical substances, commercial

- products, or waste listed herein; any waste which is non-hazardous as a result of treatment pursuant to RCRA Subtitle C; chemical-containing equipment removed from service, in which the chemical composition and concentration are unknown.
39. Stable Matter – All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from keeping of animals, livestock or poultry.
 40. Utility – A public service provided by a public or private company such as natural gas, electricity, telephone, cable television, storm and sanitary sewers and other, that are normally located in or above a public or private street or right-of-way. Utility does not include the public or private street. For the purpose of the Contract, a utility as defined above shall be located in or above the right-of-way in a manner that is consistent with governmental regulations and safe utility practices.
 41. Yard Waste – Grass clippings, leaves, and brush and shrubbery trimmings.

ATTACHMENT C

SERVICES AND SPONSORED EVENTS

City of Wimberley

City Services:

LOCATION	SERVICE TYPE	FREQUENCY
City Hall 221 Stillwater Road	Refuse	One (1) time per week
	Single Stream Recycling	One (1) time every other week
Wimberley Community Center 14068 Ranch Road 12	Refuse	One (1) time per week
	Single Stream Recycling	One (1) time every other week
Cypress Creek Nature Trail 501 Old Kyle Road	Refuse	One (1) time per week
	Single Stream Recycling	One (1) time every other week
Ranch Road 12 Rest Area	Refuse	One (1) time per week
	Single Stream Recycling	One (1) time every other week
Blue Hole Regional Park 100 Blue Hole Lane	Refuse	One (1) time per week
	Single Stream Recycling	One (1) time every other week

Sponsored Cleanups:

LOCATION	FREQUENCY	DATE	# AND SIZE OF CONTAINER(S)
TBD	Two (2) times per year	TBD	Two (2) 40-YD Roll Offs One (1) Manned Rear Load Trash Truck

The City shall notify the Contractor in October of each year of the scheduled dates for the cleanups.

Special Events:

FREQUENCY	DATE	# AND SIZE OF CONTAINER(S)
Twice Per Year	TBD	TBD

Requests for new or additional services must be made in writing and will be provided to the City at the City's expense.

**Pre-Invoice
50573-0115**

San Marcos Daily Record

P.O. Box 1109
San Marcos, TX 78667
512-392-2458

Accounts Payable
City of Wimberley
P.O. Box 2027
Wimberley, TX 78676

Customer: RA0684
Phone: 847-0025
Ad No.: 50573
PO Number:
Sales Rep: Barker, Taffy
Bill Date: 01/15/19
Due Date: 01/23/19

Public Notices	Date	Publication	Cost
Notice of Enactment of Ordinance No. 2019-03	Jan 24, 2019	Wimberley Legal Classifieds	\$57.48
	Days: 1	Total Charges:	\$57.48
		Applied Prepayments/Credits:	\$0.00
		Total Due by 1/23/19:	\$57.48

An ordinance of the City of Wimberley, Texas, granting Texas Disposal Systems, Inc., its successors and assigns, certain rights to operate and maintain solid waste and recycling collection and disposal routes and services within the City of Wimberley for a period of ten (10) years, providing an exclusive franchise, prohibiting the operation of any other residential or commercial solid waste and recycling collection business or entity, providing for certain rights, duties, terms, and conditions, providing for payment of franchise fees of twelve percent (12%) of grantee's gross revenues, civil and criminal penalties not to exceed \$2,000.00, effective dates, severability and other provisions related to the grant of a solid waste and recycling franchise.

San Marcos Daily Record

Detach and return this stub with your payment to:

Ad #: 50573
Customer #: RA0684
Customer: City of Wimberley
Bill Date: 01/15/19
Due Date: 01/23/19
Total Due: \$57.48

Payment Method: Cash Check # _____
 Visa M/C Other: _____
Number: _____
Expiration: _____ CVV _____
Name On Card: _____
Signature: _____⁷⁰

P.O. Box 1109
San Marcos, TX 78667



AGENDA ITEM: City of Wimberley Governance Policy and Rules of Procedure
SUBMITTED BY: Craig Fore, Place Two
DATE SUBMITTED: January 10, 2019
MEETING DATE: January 17, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

At the January 3rd City Council Meeting, the City of Wimberley Governance Policy and Rules of Procedure document was amended to remove Section 8.5, which stated:

“In order to control the City’s legal costs, Council members shall direct to the City Administrator or Mayor all communications or questions for the City Attorney and shall not contact the City Attorney directly. Council members shall observe the same policy for all other vendors or contractors with the City, including, but not limited to, the City’s engineer, information technology vendor, and Code inspectors.”

It was requested that this item be brought back to Council for further discussion and consideration. Attached is the current Governance Policy.

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

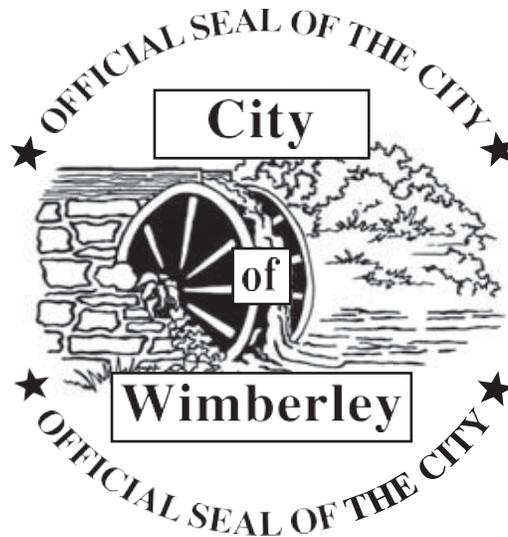
FINANCIAL

- | | | | |
|-------------------|-------------------------------------|---------------------------|----|
| Budgeted Item | <input type="checkbox"/> | Original Estimate/Budget: | \$ |
| Non-budgeted Item | <input type="checkbox"/> | Current Estimate: | \$ |
| Not Applicable | <input checked="" type="checkbox"/> | Amount Under/Over Budget: | \$ |

STAFF RECOMMENDATION

City of Wimberley

City Council Governance Policy and Rules of Procedure



Amended January 3, 2019

Page 1 of 15

COUNCIL GOVERNANCE POLICY AND RULES OF PROCEDURE

SECTION I INTRODUCTION

The City of Wimberley City Council is the governing body for the City of Wimberley, Texas. Therefore, it must bear the initial responsibility for the integrity of governance.

The Council shall determine its own rules and order of business. The Council is responsible for its own discipline and its own performance. The development of this policy is designed to ensure effective and efficient governance.

This policy addresses Mayor and Council relations, Council and City staff relations, Council and media relations, roles and meetings. By adopting these guidelines, we, as members of the City Council acknowledge our responsibility to each other to our professional staff and to the public.

This policy will be reviewed and adopted on an annual basis.

COUNCIL GOVERNANCE POLICY AND RULES OF PROCEDURE

SECTION II MISSION

In order to ensure proper discharge of duties for the improvement of democratic local government, members of the Wimberley City Council will display behavior that demonstrates independent, impartial review of all matters addressed by them, and be duly responsible to the citizens of Wimberley and each other in their relationships.

COUNCIL GOVERNANCE POLICY AND RULES OF PROCEDURE

SECTION III INFORMATION

On major policy issues, the City Administrator shall provide briefing material to the Council in advance of Council consideration of the policy alternatives. Whenever possible, the management report shall be distributed more than a week in advance of Council policy consideration.

COUNCIL GOVERNANCE POLICY AND RULES OF PROCEDURE

SECTION IV ROLES

4.1 Texas Local Government Code, Sec. 22.042 (Powers and Duties of Mayor) *(Added 08-02-18)*

(a) The mayor is the chief executive officer of the municipality. The mayor shall at all times actively ensure that the laws and ordinances of the municipality are properly carried out. The mayor shall perform the duties and exercise the powers prescribed by the governing body of the municipality.

(b) The mayor shall inspect the conduct of each subordinate municipal officer and shall cause any negligence, carelessness, or other violation of duty to be prosecuted and punished.

(c) The mayor shall give to the governing body any information, and shall recommend to the governing body any measure, that relates to improving the finances, police, health, security, cleanliness, comfort, ornament, or good government of the municipality.

(d) The mayor may administer oaths of office.

(e) In the event of a riot or unlawful assembly or to preserve the peace and good order in the municipality, the mayor may order and enforce the closing of a theater, ballroom, or other place of recreation or entertainment, or a public room or building and may order the arrest of a person who violates a state law or a municipal ordinance in the presence of the mayor.

4.2 The Mayor shall preside at meetings of the City Council and shall be recognized as head of City government for all ceremonial purposes and by the Governor for purpose of military law but shall have no regular administrative duties. The Mayor may participate in the discussion of all matters coming before the City Council. The Council shall elect, from among the Council members, a Mayor Pro-tem who shall act as Mayor during the absence or disability of the Mayor. *(Added 01-03-19)*

4.3 As head of City government for ceremonial purposes, the Mayor may issue and present proclamations and recognitions and attend other ceremonial functions on behalf of the City of Wimberley. City Council members may initiate, through the Mayor, or by a majority vote of the Council, similar items of recognition. Major community events sponsored by the City shall be a policy decision of the Council.

- 4.4 The Mayor shall preserve order and decorum and shall require City Council members engaged in debate to limit discussion to the question under consideration.
- 4.5 The Mayor is the spokesperson on all official positions taken by the City Council. The Mayor Pro-tem or alternate City Council designee will assume that role in the Mayor's absence. *(Amended 6-4-09)*
- 4.6 The Mayor will encourage all City Council members to participate in Council discussion and give each member an opportunity to speak before any member can speak again on the same subject

COUNCIL GOVERNANCE POLICY AND RULES OF PROCEDURE

SECTION V MEETINGS

5.1 Regular Meetings

The Council shall meet regularly, on the first and third Thursdays of the month, and the regular meetings will begin at 5:30 p.m., unless postponed or canceled for valid reasons. If there is a need to change the date, time or place of a regular meeting, an attempt shall be made to contact all members of the City Council about the proposed change prior to the change being made. *(Amended 06-21-18)*

5.2 Special Meetings

Special meetings will be held on Tuesdays at 5:30 p.m. to consider items that require action prior to the next regularly scheduled meeting and may be called upon the request of the Mayor. If there is a need to change the date, time or place of a special meeting, an attempt shall be made to contact all members of the City Council about the proposed change prior to the change being made. *(Amended 06-21-18)*

5.3 Executive Sessions

The City Council may meet in executive session in compliance with the Texas Open Meetings Act. A final action, decision or vote on a matter deliberated in an executive session will be made in an open meeting for which proper notice is provided. All discussions in executive session shall remain confidential.

5.4 Public Notice

The agenda for all regular meetings, special meetings and the notice listing items to be considered shall be posted on the City's official bulletin board, in accordance with the Texas Open Meetings Act, and on the City's website.

5.5 Attendance

City Council members are expected to attend all meetings and stay in attendance during each meeting. No member shall leave a meeting without advising the presiding officer.

5.6 Conflict of Interest

A City Council member prevented from voting due to a conflict of interest shall leave the meeting during the debate, shall not vote on the matter, and shall otherwise comply with the state law and City ordinances concerning conflicts of interest. Any Council member filing a conflict of interest affidavit on an executive session item shall not confer with City staff, the City Attorney, Council members or the Mayor regarding the item.

5.7 City Council Members

- (a) During City Council meetings and work sessions, Council members shall assist in preserving order and decorum and shall, neither by conversation or otherwise delay or interrupt the proceedings nor refuse to obey the rules of the City Council.
- (b) A City Council member desiring to speak shall address the chair, and upon recognition by the presiding officer, shall confine discussion to the question under debate, avoid discussion of personalities, and in appropriate language and refrain from personal attacks and verbal abuse.
- (c) A City Council member, once recognized by the chair, shall not be interrupted while speaking except for the following reasons:
 - Called to order by the presiding officer
 - A point of order is raised by another member
 - The speaker chooses to yield to questions from another member

If a City Council member is called to order while speaking, that Council member shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall remain silent or make additional remarks to comply with the rules of the City Council

- (d) When there is more than one speaker on the same subject, City Council members shall delay their comments until after all speakers on the subject have been heard.
- (e) The chair shall state all questions submitted for a vote and announce the result. If the vote is not unanimous, the chair shall announce the names of members voting in favor and in opposition to the motion.

5.7 Administrative Staff

- (a) Members of the administrative staff and employees of the City shall observe the same rules and decorum applicable to members of the City Council.
- (b) Although the presiding officer has the authority to preserve decorum in meetings, the City Administrator is responsible for the orderly conduct and decorum of all City employees under the City Administrator's direction and control.
- (c) The City Administrator shall take such disciplinary action as may be necessary to ensure that decorum is preserved at all times by City employees in meetings.
- (d) All persons addressing the City Council, including the City Administrator, shall be recognized by the presiding officer and shall limit remarks to the matter under discussion.
- (e) All remarks and questions addressed to the City Council shall be addressed to the City Council as a whole and not to any individual member.

5.8 Citizens and Visitors

- (a) Citizens and visitors are welcome to attend all public meetings of the City Council and will be admitted to the Chamber or meeting room up to the fire safety capacity of the room.
- (b) Everyone attending the meeting will refrain from private conversations while the City Council is in session.
- (c) Citizens and visitors attending City Council meetings shall observe the same rules of propriety, decorum and good conduct applicable to members of the City Council. Any person making personal, impertinent, profane, or slanderous remarks or who becomes boisterous while addressing the City Council or while attending the meeting shall be removed from the room if so directed by the presiding officer. The person shall be barred from further audience before the City Council during that session. If the presiding officer fails to act, any member of the City Council may move to require enforcement of the rules, and the affirmative vote of a majority of the City Council shall require the presiding officer to act.
- (d) Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted by the presiding officer who may direct the removal of offenders from the room. In case the

presiding officer shall fail to act, any member of the Council may move to require enforcement of the rules, and the affirmative vote of the majority of the Council shall require the presiding officer to act.

- (e) No placards, banners or signs will be permitted in the City Council Chamber or in any other room in which the City Council is meeting. Exhibits, displays and visual aids used in connection with presentations, however, are permitted.
- (f) The City Administrator or his designee shall act as sergeant at arms for the City Council and shall furnish whatever assistance is needed to enforce the rules of the City Council.

5.9 Agenda

- (a) Any City Council member may request an item be placed on a future agenda during the item on the agenda for that purpose. The City Administrator must place an item on the agenda if the item is requested by the Mayor or a member of the City Council. *The deadline to submit an item for the agenda is seven days prior to the requested Council Meeting date. (Amended 07-10-18)*

5.10 Speakers

- (a) A person wishing to address the City Council must first sign the Speaker Registration Form. The following information must be provided on the form:
 - Name
 - Residence Address
 - The subject matter to be addressed
- (b) Speakers must address their comments to the presiding officer rather than to individual City Council members or staff.
- (c) Speakers must keep their remarks specific to the item being considered by the City Council. If the speaker is addressing the City Council under Citizens Communications, the speaker may address any item not slated for discussion on the agenda. Comments from speakers and/or members of City Council should not be directed towards another person, including a member of City Council or City staff in a manner that is derogatory or threatening in nature. These guidelines for speaker decorum shall be posted on each City Council agenda and on Speaker sign-in sheets for all City Council meetings.

- (d) A person who registers to speak on an item listed on the agenda will be called on after the chair gains agreement to do so by the City Council. A person who registers to speak under Citizens Communications will be called on at that time. The chair may determine the order in which speakers are called.
- (e) All speakers will have a maximum of three (3) minutes to address the Council. A majority vote of the Council will be required to extend the time limit. The chair may impose more restrictive time limits if a large number of persons register to speak. Guidelines relating to time allotment for speakers shall be posted on each City Council agenda and on Speaker sign-in sheets for all City Council meetings.
- (f) For called public hearings, the applicant will be allowed a maximum of ten (10) minutes to make a presentation.
- (g) In accordance with the Texas Open Meetings Act, the City Council will not discuss or consider any item addressed during Citizens Communications. City Council members will not interact with the public during the time allotted to speakers unless a non-debatable motion approved by the City Council allots a specific amount of time.
- (h) Whenever it is necessary for a speaker to use an interpreter to translate comments to the City Council, the time required for the translation will not be counted against the designated time allotted for the speaker to address the City Council.

5.11 Motions

- (a) No motion may be moved or suggested until all City Council member discussion is complete and the Mayor calls for the motion. A motion made and seconded will be considered the main motion. Any City Council member may move to amend a motion. The amendment must receive a second before it may be discussed and must be voted on prior to voting on the main motion.
- (b) A motion may be withdrawn or modified by its mover without asking permission until the motion is voted upon. If the mover modifies the motion, the City Council member who seconded the motion may withdraw the second.
- (c) At any time after a motion has been made and seconded, a City Council member may call the question which will have the affect of stopping the debate and requiring the City Council to immediately proceed to vote on the motion to call the question.

- (d) A motion to reconsider any action of the City Council must be made no later than prior to the conclusion of the next regularly scheduled meeting of the City Council. Such a motion may only be made by a City Council member who voted with the prevailing side. The motion to reconsider may be seconded by any member. No question shall be twice reconsidered except by unanimous vote of the City Council, except that action relating to any contract may be reconsidered at any time before the final execution thereof.
 - (i) If a motion to reconsider is made at the same meeting at which the matter was acted upon, the motion may be heard and voted upon and the original action on the matter is set aside. Deliberation may then resume on the matter at that same meeting.
 - (ii) If a motion to reconsider is made at the next meeting after the matter was acted upon, the motion to reconsider may be heard and voted upon and the original action on the matter is not set aside. Deliberation may not resume on the matter, but it shall be placed on the next available agenda for deliberation.

5.12 Suspension of Rules

Any provision of these rules not governed by City ordinance, State or Federal law may be temporarily suspended by a majority vote of the members of the City Council present. The vote on any such suspension shall be taken by yeas and nays and entered upon the record.

5.13 Amendment of Rules

These rules may be amended, or new rules adopted by a majority vote of the members of the City Council

5.14 Failure to Comply

A failure to comply with these rules does not invalidate any otherwise lawful act of the City Council.

5.15 Security

Constable support will be requested at all Council meetings at the discretion of the Mayor.

COUNCIL GOVERNANCE POLICY AND RULES OF PROCEDURE

SECTION VI PUBLIC CONTACT MEDIA RELATIONS

Representative government is only successful when the citizens are kept informed and educated about the issues facing their municipality. Consequently, it is imperative that the media play an important role in the Council-Administrator-Media relations. It is through an informed public that progress is ensured, and good government remains sensitive to its constituents.

These guidelines are designed to help ensure positive relationships with print, radio and television reporters. The Mayor, City Council and the City Administrator recognize that the news media provide an important link between the City Council and the public. It is the City Council's desire to establish a professional working relationship to help maintain a well informed and educated citizenry.

- 6.1 During the conduct of official business, the City shall designate adequate space for the news media.
- 6.2 All reporters will receive an agenda in advance and will be furnished support material needed for clarification, if requested.

COUNCIL GOVERNANCE POLICY AND RULES OF PROCEDURE

SECTION VII PLANNING

The Mayor and Council are responsible for establishing a vision for the City of Wimberley and planning for its future.

- 7.1 On an annual basis, the Mayor and City Council shall hold a minimum of one (1) strategic planning session wherein they set priorities goals and objectives. The goals and objectives shall address short term and long term needs of the City.
- 7.2 Policy direction shall be consistent with the strategic goals and objectives. Sufficient time and consideration should be given to policy alternatives to ensure that decisions are made consistent with the long-term vision.

COUNCIL GOVERNANCE POLICY AND RULES OF PROCEDURE

SECTION VIII COUNCIL STAFF RELATIONS

- 8.1 The role of the City Administrator and the relationship of staff with City Council is addressed in City ordinance.
- 8.2 The City Council shall direct comments, correspondence and concerns about City services to the City Administrator. Citizens concerns, comments and correspondence regarding City services received by City Council members shall be forwarded to the City Administrator for appropriate staff action and a timely response.
- 8.3 Documents provided to one (1) City Council member shall also be distributed to all other members of the elected body. The City Administrator shall prepare and submit to the Council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the City for the preceding year. The City Administrator shall keep the City Council advised of the financial condition and future needs of the City and make such recommendations that may seem desirable.
- 8.4 In order to ensure proper presentation of agenda items by City staff, questions arising from City Council members, after receiving their information packet, should be, whenever possible, presented to the City Administrator or the Administrator's designated assistant for City staff consideration prior to the City Council meeting. This allows time for City staff to address the City Council member's concerns and provide all Council members with the additional information.



AGENDA ITEM: Comprehensive Review Plan Committee Appointments
SUBMITTED BY: Gary Barchfeld, Place Four
DATE SUBMITTED: January 10, 2019
MEETING DATE: January 17, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

At the January 3rd City Council Meeting, Council members voted to establish the Comprehensive Review Plan Committee. This item is being brought back to Council to appoint members to the Committee.

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

- | | | | |
|-------------------|-------------------------------------|---------------------------|----|
| Budgeted Item | <input type="checkbox"/> | Original Estimate/Budget: | \$ |
| Non-budgeted Item | <input type="checkbox"/> | Current Estimate: | \$ |
| Not Applicable | <input checked="" type="checkbox"/> | Amount Under/Over Budget: | \$ |

STAFF RECOMMENDATION



AGENDA ITEM: Reuse of Reclaimed Water from the Central Wimberley Wastewater Project
SUBMITTED BY: Allison Davis, Place Three
DATE SUBMITTED: January 10, 2019
MEETING DATE: January 17, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Discuss and consider possible action concerning the reuse of reclaimed water from the Central Wimberley Wastewater Project at Blue Hole Regional Park, and its inclusion in the change of scope application to the Texas Water Development Board (TWDB) and the associated costs in the change of scope application to the TWDB.

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

- | | | | |
|-------------------|--------------------------|---------------------------|----|
| Budgeted Item | <input type="checkbox"/> | Original Estimate/Budget: | \$ |
| Non-budgeted Item | <input type="checkbox"/> | Current Estimate: | \$ |
| Not Applicable | <input type="checkbox"/> | Amount Under/Over Budget: | \$ |

STAFF RECOMMENDATION



AGENDA ITEM: Legal Expenditures
SUBMITTED BY: Allison Davis, Place Three
DATE SUBMITTED: January 10, 2019
MEETING DATE: January 17, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Discuss and consider possible action on legal expenditures.

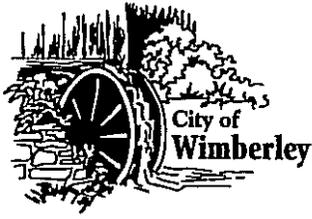
REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

- Budgeted Item Original Estimate/Budget: \$
- Non-budgeted Item Current Estimate: \$
- Not Applicable Amount Under/Over Budget: \$

STAFF RECOMMENDATION



AGENDA ITEM: Central Wimberley Wastewater Project
Change of Scope
SUBMITTED BY: Allison Davis, Place Three
DATE SUBMITTED: January 10, 2019
MEETING DATE: January 17, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Discuss and consider possible action concerning Central Wimberley Wastewater Project change of scope plan costs.

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

- | | | | |
|-------------------|--------------------------|---------------------------|----|
| Budgeted Item | <input type="checkbox"/> | Original Estimate/Budget: | \$ |
| Non-budgeted Item | <input type="checkbox"/> | Current Estimate: | \$ |
| Not Applicable | <input type="checkbox"/> | Amount Under/Over Budget: | \$ |

STAFF RECOMMENDATION



AGENDA ITEM: Place Five Appointment
SUBMITTED BY: Laura Calcote, City Secretary
DATE SUBMITTED: January 10, 2019
MEETING DATE: January 17, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

At the January 3rd City Council Meeting, Council accepted Place Five Council Member Patricia Cantu Kelly's resignation. Council also made a motion to fill her vacancy by appointment. This item is being brought back to Council for discussion and possible action regarding the appointment.

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

- | | | | |
|-------------------|--------------------------|---------------------------|----|
| Budgeted Item | <input type="checkbox"/> | Original Estimate/Budget: | \$ |
| Non-budgeted Item | <input type="checkbox"/> | Current Estimate: | \$ |
| Not Applicable | <input type="checkbox"/> | Amount Under/Over Budget: | \$ |

STAFF RECOMMENDATION