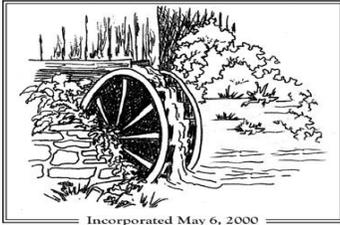


**REGULAR CITY
COUNCIL MEETING
PACKET**

Thursday, February 7, 2019

5:30 p.m.



City of Wimberley

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

REGULAR CITY COUNCIL MEETING
WIMBERLEY CITY HALL – CITY COUNCIL CHAMBERS
221 STILLWATER, WIMBERLEY, TEXAS 78676
THURSDAY, FEBRUARY 7, 2019 – 5:30 P.M.

AGENDA

1. **CALL TO ORDER** February 7, 2019 at 5:30 p.m.
2. **CALL OF ROLL** City Secretary
3. **INVOCATION**
4. **PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG**
5. **PROCLAMATION**
Proclamation of the City of Wimberley, Texas proclaiming February 2019 as Dating Violence Awareness and Prevention Month.
6. **CITIZENS COMMUNICATIONS**
The City Council welcomes comments from citizens who have a direct stake in the business of the city, such as a landowner, resident, vendor or business owner on issues and items of concern, not on this agenda. Those wishing to speak must sign-in before the meeting begins and observe a three-minute time limit when addressing Council. Speakers will have one opportunity to speak during the time period. Speakers desiring to speak on an agenda item will be allowed to speak when the agenda item is called. Inquiries about matters not listed on the agenda will either be directed to staff or placed on a future agenda for Council consideration. Comments from speakers should not be directed towards any specific member of City Council or City staff. Comments should not be accusatory, derogatory or threatening in nature.
7. **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 Special City Council Meeting held January 8, 2019 at 5:30 p.m.
 - B. Approval of minutes from the Special City Council Meeting held January 8, 2019 at 7:30 p.m.

C. Approval of minutes from the Regular City Council Meeting held January 17, 2019.

D. Approval of the October 2018 and November 2018 Financial Statements for the City of Wimberley.

8. CITY ADMINISTRATOR REPORT

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

9. PUBLIC HEARING AND POSSIBLE ACTION

Hold a public hearing and consider approval of the second and final 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.

10. DISCUSSION AND POSSIBLE ACTION

A. Discuss and consider possible action to approve a quote in the amount of \$1,403.00 from Event Wristbands for the purchase of swim season wristbands. (*Parks Director Rebecca Manning*)

B. Discuss and consider possible action to approve a bid in the amount of \$1,150.00 from Drippin' Irrigation for repair of the downtown irrigation system. (*Public Works Superintendent John Provost*)

C. Discuss and consider possible action to approve the second and final 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*)

D. Discuss and consider possible action to approve Ordinance No. 2019-04, regarding attorney/client privilege, waiver of attorney/client privilege, and required action by City Council membership to waive attorney/client privilege. (*City Attorney Charlie Zech*)

E. Discuss and consider possible action regarding the City of Wimberley Investment Policy. (*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 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)*
- H. Discuss and consider possible action concerning Central Wimberley Wastewater Project change of scope plan costs. *(Place Three Council Member Allison Davis)*
- I. Discuss and consider possible action regarding legal expenditures. *(Place Three Council Member Allison Davis)*
- J. Discuss and consider possible action regarding the purchase of supplies for the patio kitchen area. *(Mayor Susan Jagers)*
- K. Discuss and consider possible action regarding engineering for the Hidden Valley Low Water Crossing. *(Mayor Susan Jagers)*
- L. Discuss and consider possible action regarding the Cypress Creek Nature Preserve Trail. *(Mayor Susan Jagers)*
- M. Discuss and consider possible action regarding a reimbursement to Mayor Jagers for the purchase of a desktop computer. *(Mayor Susan Jagers)*
- N. Discuss and consider possible action to receive direction regarding Fiscal Year 2019 budget amendment. *(City Administrator Shawn Cox)*
- O. Discuss and consider possible action regarding the regular City Council meeting schedule. *(Mayor Susan Jagers)*
- P. 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.

11. CITY COUNCIL REPORTS

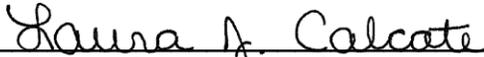
- A. Announcements
- B. Future agenda items

12. 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.

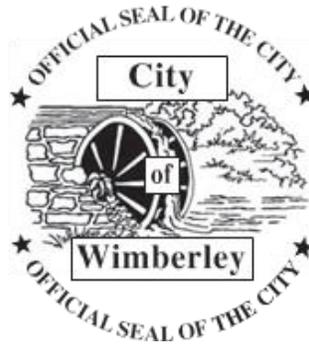
CERTIFICATION

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, February 4, 2019, by 5:30 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

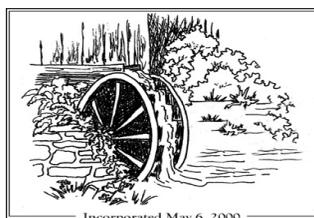


Laura J. Calcote, City Secretary

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.



City of Wimberley



Proclamation

THE STATE OF TEXAS §
COUNTY OF HAYS §
CITY OF WIMBERLEY §

WHEREAS, one in three adolescents is a victim of physical, sexual, emotional, or verbal abuse from a dating partner; and

WHEREAS, the effects of dating violence impact youth in all communities and cuts across economic, racial, gender, and societal barriers; and

WHEREAS, respectful, supportive, and non-violent relationships are key to safety, health, and academic success; and

WHEREAS, by providing teens and young adults with education about healthy relationships and relationship skills, and by changing attitudes that support violence, we recognize that dating violence can be prevented; and

WHEREAS, family, friends, teachers, coaches, faith leaders, community members, and other important people in young peoples' lives have the power to influence youth in positive ways; and

WHEREAS, last year HCWC provided 179 dating violence prevention and healthy relationships presentations to 2,064 teens and young adults; and

WHEREAS, we must work together to raise awareness and promote healthy dating relationships with activities and conversations about mutually respectful and non-violent relationships in our homes, schools, and communities.

NOW, THEREFORE, I, Susan Jagers, by virtue of the authority vested in me as Mayor of Wimberley, Texas do hereby proclaim the month of February 2019 as **DATING VIOLENCE AWARENESS AND PREVENTION MONTH** for teens and young adults.

And do hereby call upon the citizens of Wimberley to work together to raise awareness and prevent dating violence in our community and beyond.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Seal of Wimberley, Texas, this 7th day of February, 2019.

CITY OF WIMBERLEY

Susan Jagers, Mayor



AGENDA ITEM: Consent Agenda
SUBMITTED BY: Laura Calcote, City Secretary
DATE SUBMITTED: February 4, 2019
MEETING DATE: February 7, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

- A. Approval of minutes from the Special City Council Meeting held January 8, 2019 at 5:30 p.m.
- B. Approval of minutes from the Special City Council Meeting held January 8, 2019 at 7:30 p.m.
- C. Approval of minutes from the Regular City Council Meeting held January 17, 2019.
- D. Approval of the October 2018 and November 2018 Financial Statements for the City of Wimberley.

REQUESTED ACTION

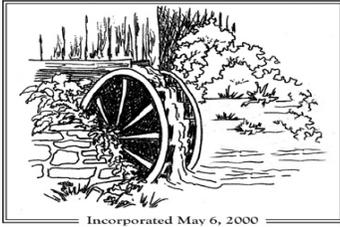
- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

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

STAFF RECOMMENDATION

Approval of Items A-D



City of Wimberley

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

SPECIAL CITY COUNCIL MEETING
WIMBERLEY COMMUNITY CENTER – JOHNSON HALL
14068 RANCH ROAD 12, WIMBERLEY, TEXAS 78676
TUESDAY, JANUARY 8, 2019 – 5:30 P.M.

MINUTES

The City Council of the City of Wimberley, Texas met on Tuesday, January 8, 2019, at 5:30 p.m. at the Wimberley Community Center – Johnson Hall located at 14068 Ranch Road 12, Wimberley, Hays County, Texas 78676 for the purpose of observing and participating in a public hearing on the proposed Central Wimberley Wastewater Project Modifications.

Council Members Present: Susan Jagers Mayor
 Mike McCullough Place One
 Allison Davis Place Three
 Gary Barchfeld Place Four

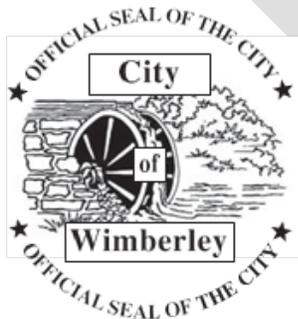
Staff Present: Shawn Cox City Administrator
 Laura Calcote City Secretary

Others Present: Steve Coonan Project Engineer

The public hearing lasted approximately two hours and fifty minutes. No action was taken during the public hearing.

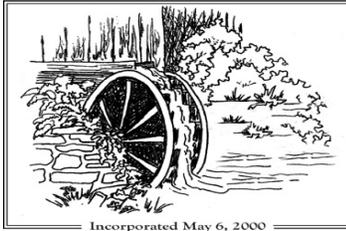
RECORDED BY:

Laura J. Calcote, City Secretary



APPROVED BY:

Susan Jagers, Mayor



City of Wimberley

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

SPECIAL CITY COUNCIL MEETING
WIMBERLEY COMMUNITY CENTER – JOHNSON HALL
14068 RANCH ROAD 12, WIMBERLEY, TEXAS 78676
TUESDAY, JANUARY 8, 2019 – 7:30 P.M.

MINUTES

The City Council of the City of Wimberley, Texas met on Tuesday, January 8, 2019, at 8:15 p.m. at the Wimberley Community Center – Johnson Hall located at 14068 Ranch Road 12, Wimberley, Hays County, Texas 78676 for the purpose for observing and participating in a Town Hall Meeting.

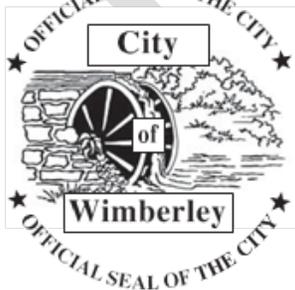
Council Members Present: Susan Jagers Mayor
 Mike McCullough Place One
 Gary Barchfeld Place Four

Staff Present: Shawn Cox City Administrator
 Laura Calcote City Secretary

No action was taken during the meeting.

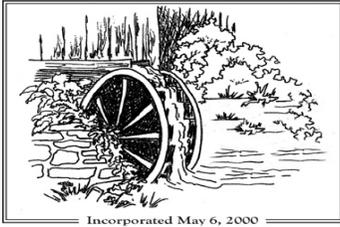
RECORDED BY:

Laura J. Calcote, City Secretary



APPROVED BY:

Susan Jagers, Mayor



City of Wimberley

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

REGULAR CITY COUNCIL MEETING
WIMBERLEY CITY HALL – CITY COUNCIL CHAMBERS
221 STILLWATER, WIMBERLEY, TEXAS 78676
THURSDAY, JANUARY 17, 2019 – 5:30 P.M.

MINUTES

CALL TO ORDER

Mayor Susan Jagers called the meeting to order at 5:30 p.m.

CALL OF ROLL

Council Members Present: Susan Jagers Mayor
Mike McCullough Place One
Craig Fore Place Two
Gary Barchfeld Place Four

Council Members Absent: Allison Davis Place Three

City Staff Present: Shawn Cox City Administrator
Laura Calcote City Secretary
Terri Provost Community Center Director
John Provost Public Works Superintendent

INVOCATION

Council Member Gary Barchfeld gave the invocation.

PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG

Mayor Susan Jagers led the pledges to the United States and Texas flags.

PRESENTATION AND POSSIBLE ACTION

Becky McCullough presented information regarding an agreement between the City of Wimberley and the Wimberley Valley Art League (WVAL) for signage at the Wimberley Community Center. There was discussion among Council members pertaining to the cost estimate and bids for the new signage. It was decided the Wimberley Valley Art League would supervise the funding and installation of the signage at the Wimberley Community Center. **Motion to approve the signage for the Wimberley Community Center, as presented at the higher level, and to waive all City permit fees for the project was made by Council Member Craig Fore. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (3-0).**

CITIZENS COMMUNICATIONS

There were two citizen's comments. They were as follows:

1. William Bowman spoke regarding his recommendation not to move forward with a change in scope to the the Central Wimberley Wastewater Project until the change had been approved and the details sorted out. Mr. Bowman noted the projected cost with the change in scope would exceed the original cost, and the City still had not received approval from the Texas Water Development Board to change the Project.

Mayor Susan Jagers responded to Mr. Bowman's comments, stating she thought he had a good suggestion, and that citizens had waited a long time for the sewer system and the Council did not want to delay the Project further.

2. Janette Barlow addressed Council regarding their campaign promises during the 2018 election. Ms. Barlow stated the Voices of Wimberley (VOW) had supported them as candidates and noted the guiding principles of VOW, including transparency in government, efficiency in systems and unification of community through consideration and involvement of all within the Wimberley Valley area. She urged Council to uphold these principles. Ms. Barlow also stated she was dismayed at the manipulative strategies used by the Mayor and some Council members at the January 8th Public Hearing to undermine the majority.

Mayor Susan Jagers responded regarding the guiding principles and agreed they needed to be followed. Mayor Jagers also stated that during the 2018 campaign she stated Aqua Texas was not on the agenda during that time, but she did not say she would never support Aqua Texas. Additionally, Mayor Jagers noted that roughly two percent (2%) of the January 8th Public Hearing attendees would be paying for the sewer service, and disputed the allegation that speakers were cherry-picked.

EXECUTIVE SESSION

City Council adjourned into Executive Session at 5:57 p.m. in accordance with Texas Government Code, Chapter 551, Subchapter D for the following purposes:

- A. Section 551.071 (Consultation with Attorney) to receive legal advice regarding review of a potential Aqua Texas contract.
- B. 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. *(This item was not read into the record, nor discussed in Executive Session.)*

OPEN SESSION

Regular Session reconvened at 6:09 p.m.

No action was taken.

CONSENT AGENDA

Motion to approve the Consent Agenda was made by Council Member Gary Barchfeld.

Motion was seconded by Council Member Craig Fore. Motion carried unanimously (3-0).

- 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.

CITY ADMINISTRATOR REPORT

City Administrator Shawn Cox provided an update regarding the status of the Central Wimberley Wastewater Project. Mr. Cox noted public comments to the Texas Water Development Board (TWDB) pertaining to the change in scope of the Project were due to the agency by the end of January. Additionally, Mr. Cox updated Council on sales tax for the City.

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.

City Administrator Shawn Cox presented the ordinance, which would allow for the sale of beer, wine and alcohol for in room consumption for both Lodging Districts (L-1 and L-2) as a permitted use, eating establishments: sit-down, including the sale of beer, wine, or alcohol for on-premise consumption as a conditional use for L-1 and include bars/taverns as conditional use for L-2. The Planning and Zoning Commission had recommended approval at their January 10th meeting by a 5-0-1 vote.

Mayor Susan Jagers opened the public hearing at 6:20 p.m.

There were no public comments.

Mayor Susan Jagers closed the public hearing at 6:21 p.m.

There was discussion among Council regarding the proposed changes.

Motion to approve 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 was made by Council Member Craig Fore. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (3-0).

- 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*)
Cactus Coffee owner Brooke Burnett addressed Council regarding her request to move her food service trailer to Odie's Food Court.

Motion to approve the request to operate a food service trailer at 411 FM 2325 in Wimberley, Texas was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (3-0).

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*)

Motion 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 was made by Council Member Craig Fore. Motion was seconded by Council Member Mike McCullough. Motion carried unanimously (3-0).

- 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*)

Public Works Superintendent John Provost stated the road repair to River Road was an emergency situation, and the Transportation Advisory Board had recommended to move forward with both road repairs at their January 13th meeting.

Motion to approve a bid in the amount of \$12,401.00 from Hays County for road repair to River Road and Blue Hole Lane was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (3-0).

- 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*)

Motion 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 was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (3-0).

- 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*)

Motion to approve the proposed Election Services Contract with the Hays County Elections Administrator to conduct the May 4, 2019 General Election for the City of Wimberley was made by Council Member Craig Fore. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (3-0).

- 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*)

Texas Disposal Systems Representative Ray Bryant addressed Council regarding the proposed TDS contract. There was discussion among Council members pertaining to the contract and the services provided by the entity.

Motion 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 was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Mike McCullough. Motion carried unanimously (3-0).

- F. Discuss and consider possible action to amend the City of Wimberley Governance Policy and Rules of Procedure. *(Place Two Council Member Craig Fore)*
There was some discussion among Council members regarding this item. It was decided to postpone until all members of Council were present.
Motion to postpone the item until the next Regular City Council Meeting on February 7th was made by Council Member Craig Fore. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (3-0).
- G. Discuss and consider possible action to appoint members to the Comprehensive Review Plan Committee. *(Place Four Council Member Gary Barchfeld)*
Motion to appoint Craig Reitz, Jo Kathryn Quinn, David Glenn, Phil Collins and Jim Thompson to the Comprehensive Review Plan Committee was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (3-0).
- 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)*
Motion to postpone the item until the next Regular City Council Meeting on February 7th was made by Council Member Craig Fore. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (3-0).
- I. Discuss and consider possible action on legal expenditures. *(Place Three Council Member Allison Davis)*
Motion to postpone the item until the next Regular City Council Meeting on February 7th was made by Council Member Craig Fore. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (3-0).
- J. Discuss and consider possible action concerning Central Wimberley Wastewater Project change of scope plan costs. *(Place Three Council Member Allison Davis)*
Motion to postpone the item until the next Regular City Council Meeting on February 7th was made by Council Member Craig Fore. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (3-0).
- 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.
Motion to nominate and appoint Patrick Rehmet to fill the Place Five vacancy on the Wimberley City Council was made by Council Member Mike McCullough. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (3-0).

CITY COUNCIL REPORTS

A. Announcements – None.

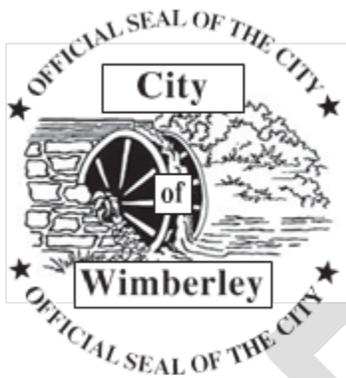
B. Future agenda items – None.

ADJOURNMENT

Motion to adjourn the meeting at 6:55 p.m. was made by Council Member Craig Fore. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (3-0).

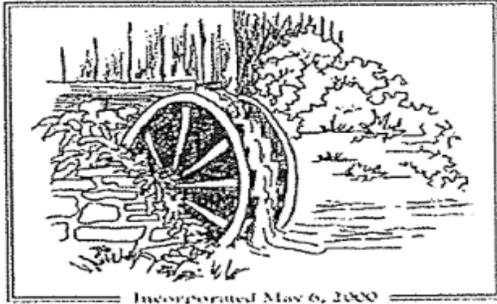
RECORDED BY:

Laura J. Calcote, City Secretary



APPROVED BY:

Susan Jagers, Mayor



CITY OF WIMBERLEY

Summary Financial Statements

One Month Ended October 31, 2018

City of Wimberley
Balance Sheets
October 31, 2018

	Major Funds					Nonmajor Funds		
	General	Blue Hole	HOT	Wastewater Utility	Wastewater Construction	Municipal Court	BHP Development	FM 2325 Sidwalks
Cash and investments	\$ 1,300,400	546,130	142,182	99,023	3,221,068	4,327	18,757	5,025
Receivables and other	191,439	-	-	618	-	-	-	-
Construction, sinking funds and restricted cash	-	-	-	186,948	605,425	-	-	-
Net investment in fixed assets	-	-	-	754,460	-	-	-	-
Total Assets	\$ 1,491,839	546,130	142,182	1,041,049	3,826,493	4,327	18,757	5,025
Payables	\$ 79,816	9,644	-	71,689	67,494	343	-	-
Debt (old)	-	-	-	342,148	-	-	-	-
Debt - TWDB (new)	-	-	-	-	5,255,000	-	-	-
Total Liabilities	<u>79,816</u>	<u>9,644</u>	<u>-</u>	<u>413,837</u>	<u>5,322,494</u>	<u>343</u>	<u>-</u>	<u>-</u>
Fund Balance	<u>1,412,023</u>	<u>536,486</u>	<u>142,182</u>	<u>627,212</u>	<u>(1,496,001)</u>	<u>3,984</u>	<u>18,757</u>	<u>5,025</u>
Total Liabilities and Fund Balance	\$ 1,491,839	546,130	142,182	1,041,049	3,826,493	4,327	18,757	5,025

Note:

Wastewater Funds considered "proprietary funds", and thus includes investment in fixed assets, while other funds do not.

City of Wimberley
Revenues and Expenditures - General Fund

One Month Ended October 31, 2018

	10/31/2018	YTD	2019 Budget	YTD % Budget 8%
Revenues				
Sales taxes	\$ 92,074	92,074	860,000	11%
Mixed beverage tax	\$ -	-	9,500	0%
Franchise tax	\$ -	-	278,250	0%
Permit fees	\$ 1,600	1,600	55,750	3%
Grant funds	\$ -	-	-	-
Service fees	\$ 5,617	5,617	50,700	11%
Community Center rental fees	\$ 6,270	6,270	55,000	11%
Other income	\$ 3,087	3,087	4,000	77%
Total Revenues	\$ 108,648	108,648	1,313,200	8%
Expenditures				
Administration	74,334	74,334	806,047	9%
Administration - Legal	7,584	7,584	200,000	4%
Council/Board	-	-	65,575	0%
Building	2,905	2,905	39,000	7%
Public Safety	3,451	3,451	105,254	3%
Municipal Court	1,078	1,078	-	-
Public Works	12,040	12,040	161,131	7%
Roads	52,450	52,450	253,500	21%
Waste/Wastewater	3,537	3,537	34,000	10%
Community Center	7,420	7,420	136,819	5%
Nature Trail	310	310	10,300	3%
Total Expenditures	165,108	165,108	1,811,626	9%
Excess Revenues Over Expenditures	(56,460)	(56,460)	(498,426)	
	\$ (56,460)	(56,460)	(498,426)	

City of Wimberley
Revenues and Expenditures - Blue Hole

One Month Ended October 31, 2018

	10/31/2018	YTD	2019 Budget	YTD % Budget 8%
<u>Revenues</u>				
Gate fees	\$ (30)	(30)	341,680	0%
Other fees	3,190	3,190	51,500	6%
Miscellaneous	1,071	1,071	4,650	23%
Total Revenues	4,231	4,231	397,830	1%
<u>Expenditures</u>				
Wages and benefits	12,714	12,714	276,127	5%
Contract services	6,644	6,644	18,200	37%
Other	6,532	6,532	83,303	8%
Purchase under reclaimed water agreement	-	-	-	-
Capital Outlay	-	-	20,000	0%
Operating Transfer Out	-	-	200,000	0%
Total Expenditures	25,890	25,890	597,630	4%
Excess Revenues Over Expenditures	\$ (21,659)	(21,659)	(199,800)	
Transfer in from General Fund	-	-	101,572	
Net Change in Fund Balance	\$ (21,659)	(21,659)	(98,228)	

City of Wimberley

Revenues and Expenditures - Hotel Occupancy Tax

One Month Ended October 31, 2018

	10/31/2018	YTD	2019 Budget	YTD % Budget 8%
Revenues				
Hotel Occupancy Tax	\$ -	-	-	-
Interest income	6	6	-	-
Miscellaneous	-	-	-	-
Total Revenues	6	6	-	-
Expenditures				
Wages & Bennifits	-	-	-	-
Other	-	-	-	-
Contract Services	2,054	2,054	-	-
HOT Disbursements	-	-	-	-
General Operating Supplies	-	-	-	-
Capital Outlay	-	-	-	-
Total Expenditures	2,054	2,054	-	-
Excess Revenues Over Expenditures	\$ (2,048)	(2,048)	-	
Transfer in from General Fund	-	-	-	
Net Change in Fund Balance	\$ (2,048)	(2,048)	-	

City of Wimberley

Revenues and Expenditures - Wastewater Utility Fund

One Month Ended October 31, 2018

	10/31/2018	YTD	2019 Budget	YTD % Budget 8%
Revenues				
Charges for utility services	\$ 10,516	10,516	117,286	9%
Reclaimed water revenues	-	-	-	
Interest	12	12	-	-
Total Revenues	10,528	10,528	117,286	9%
Expenditures				
Contract Services	46,174	46,174	268,020	17%
Utilities	776	776	7,500	10%
Project Manager	5,994	5,994	90,000	7%
Other Expenses	5	5	675	1%
Capital Outlay (debt repayment)	-	-	31,250	0%
Wastewater Debt Service - Principal	-	-	216,734	0%
Wastewater Debt Service - Interest	-	-	89,606	0%
Total Expenditures	52,948	52,948	703,785	8%
Excess Revenues Over Expenditures	(42,421)	(42,421)	(586,499)	
Transfer In	-	-	501,131	0%
Net Change in Fund Balance	\$ (42,421)	(42,421)	(85,368)	

City of Wimberley

Revenues and Expenditures - Wastewater Collection and Treatment Plant

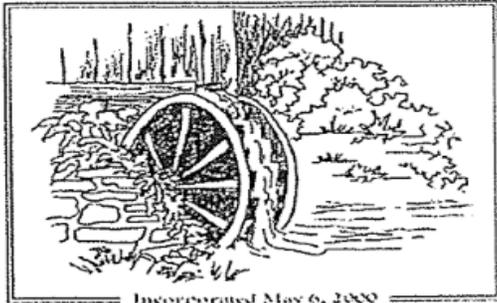
One Month Ended October 31, 2018

	10/31/2018	YTD	2019 Budget	YTD % Budget 8%
Revenues				
Interest revenues	\$ 155	155	-	-
Investment income	4,419	4,419	-	-
WW Bond Reserve Funds	-	-	-	-
Total Revenues	4,575	4,575	-	-
Expenditures				
Records management	-	-	-	-
Capital outlay	67,301	67,301	-	-
Other expenses	-	-	-	-
Total Expenditures	67,301	67,301	-	-
Excess Revenues Over Expenditures	(62,727)	(62,727)	-	-
Transfer in from General Fund	-	-	-	-
Net Change in Fund Balance	\$ (62,727)	(62,727)	-	-

City of Wimberley
Revenues and Expenditures - Nonmajor Funds

One Month Ended October 31, 2018

	Municipal Court			BHP Development			FM 2325 Sidewalk		
	10/31/2018	YTD	2019 Budget	10/31/2018	YTD	2019 Budget	10/31/2018	YTD	2019 Budget
Total Revenues	\$ 563	563	-	\$ 2	2	18	\$ 0	0	2
Total Expenditures	-	-	-	-	-	-	-	-	-
Excess Revenues Over Expenditures	\$ 563	563	-	\$ 2	2	18	\$ 0	0	2
Fund Transfers	-	-	-	-	-	-	-	-	-
Net Change in Fund Balance	\$ 563	563	-	\$ 2	2	18	\$ 0	0	2



CITY OF WIMBERLEY

Summary Financial Statements

Two Months Ended November 30, 2018

City of Wimberley
Balance Sheets
November 30, 2018

	Major Funds					Nonmajor Funds		
	General	Blue Hole	HOT	Wastewater Utility	Wastewater Construction	Municipal Court	BHP Development	FM 2325 Sidwalks
Cash and investments	\$ 1,359,176	529,986	142,188	62,806	3,158,422	5,070	18,760	5,025
Receivables and other	155,344	-	-	618	-	-	-	-
Construction, sinking funds and restricted cash	-	-	-	186,949	605,555	-	-	-
Net investment in fixed assets	-	-	-	754,460	-	-	-	-
Total Assets	\$ 1,514,519	529,986	142,188	1,004,834	3,763,978	5,070	18,760	5,025
Payables	\$ 96,313	13,268	-	106,178	193	703	-	-
Debt (old)	-	-	-	342,148	-	-	-	-
Debt - TWDB (new)	-	-	-	-	5,255,000	-	-	-
Total Liabilities	<u>96,313</u>	<u>13,268</u>	<u>-</u>	<u>448,326</u>	<u>5,255,193</u>	<u>703</u>	<u>-</u>	<u>-</u>
Fund Balance	<u>1,418,207</u>	<u>516,717</u>	<u>142,188</u>	<u>556,508</u>	<u>(1,491,215)</u>	<u>4,367</u>	<u>18,760</u>	<u>5,025</u>
Total Liabilities and Fund Balance	\$ 1,514,519	529,986	142,188	1,004,834	3,763,978	5,070	18,760	5,025

Note:

Wastewater Funds considered "proprietary funds", and thus includes investment in fixed assets, while other funds do not.

City of Wimberley
Revenues and Expenditures - General Fund

Two Months Ended November 30, 2018

	11/30/2018	YTD	2019 Budget	YTD % Budget 17%
Revenues				
Sales taxes	\$ 60,176	152,250	860,000	18%
Mixed beverage tax	\$ -	-	9,500	0%
Franchise tax	\$ 11,327	11,327	278,250	4%
Permit fees	\$ 2,820	4,420	55,750	8%
Grant funds	\$ -	-	-	-
Service fees	\$ 3,995	9,613	50,700	19%
Community Center rental fees	\$ 4,340	10,610	55,000	19%
Other income	\$ 3,439	6,525	4,000	163%
Total Revenues	\$ 86,097	194,745	1,313,200	15%
Expenditures				
Administration	24,337	98,671	806,047	12%
Administration - Legal	14,893	22,477	200,000	11%
Council/Board	1,350	1,350	65,575	2%
Building	4,403	7,308	39,000	19%
Public Safety	2,295	5,746	105,254	5%
Municipal Court	2,637	3,715	-	-
Public Works	11,235	23,275	161,131	14%
Roads	2,527	54,977	253,500	22%
Waste/Wastewater	664	4,200	34,000	12%
Community Center	9,393	16,813	136,819	12%
Nature Trail	5,980	6,289	10,300	61%
Total Expenditures	79,713	244,821	1,811,626	14%
Excess Revenues Over Expenditures	6,384	(50,076)	(498,426)	
	\$ 6,384	(50,076)	(498,426)	

City of Wimberley
Revenues and Expenditures - Blue Hole

Two Months Ended November 30, 2018

	11/30/2018	YTD	2019 Budget	YTD % Budget 17%
<u>Revenues</u>				
Gate fees	\$ -	(30)	341,680	0%
Other fees	195	3,385	51,500	7%
Miscellaneous	522	1,593	4,650	34%
Total Revenues	717	4,948	397,830	1%
<u>Expenditures</u>				
Wages and benefits	17,084	29,798	276,127	11%
Contract services	340	6,984	18,200	38%
Other	3,062	9,594	83,303	12%
Purchase under reclaimed water agreement	-	-	-	-
Capital Outlay	-	-	20,000	0%
Operating Transfer Out	-	-	200,000	0%
Total Expenditures	20,486	46,376	597,630	8%
Excess Revenues Over Expenditures	\$ (19,769)	(41,428)	(199,800)	
Transfer in from General Fund	-	-	101,572	
Net Change in Fund Balance	\$ (19,769)	(41,428)	(98,228)	

City of Wimberley

Revenues and Expenditures - Hotel Occupancy Tax

Two Months Ended November 30, 2018

	11/30/2018	YTD	2019 Budget	YTD % Budget 17%
Revenues				
Hotel Occupancy Tax	\$ -	-	-	-
Interest income	6	12	-	-
Miscellaneous	-	-	-	-
Total Revenues	6	12	-	-
Expenditures				
Wages & Bennifits	-	-	-	-
Other	-	-	-	-
Contract Services	-	2,054	-	-
HOT Disbursements	-	-	-	-
General Operating Supplies	-	-	-	-
Capital Outlay	-	-	-	-
Total Expenditures	-	2,054	-	-
Excess Revenues Over Expenditures	\$ 6	(2,042)	-	
Transfer in from General Fund	-	-	-	
Net Change in Fund Balance	\$ 6	(2,042)	-	

City of Wimberley

Revenues and Expenditures - Wastewater Utility Fund

Two Months Ended November 30, 2018

	11/30/2018	YTD	2019 Budget	YTD % Budget 17%
Revenues				
Charges for utility services	\$ 9,280	19,796	117,286	17%
Reclaimed water revenues	-	-	-	
Interest	9	21	-	-
Total Revenues	9,289	19,817	117,286	17%
Expenditures				
Contract Services	46,900	93,074	268,020	35%
Utilities	608	1,384	7,500	18%
Project Manager	22,484	28,478	90,000	32%
Other Expenses	151	156	675	23%
Capital Outlay (debt repayment)	9,850	9,850	31,250	32%
Wastewater Debt Service - Principal	-	-	216,734	0%
Wastewater Debt Service - Interest	-	-	89,606	0%
Total Expenditures	79,993	132,941	703,785	19%
Excess Revenues Over Expenditures	(70,704)	(113,124)	(586,499)	
Transfer In	-	-	501,131	0%
Net Change in Fund Balance	\$ (70,704)	(113,124)	(85,368)	

City of Wimberley

Revenues and Expenditures - Wastewater Collection and Treatment Plant

Two Months Ended November 30, 2018

	11/30/2018	YTD	2019 Budget	YTD % Budget 17%
Revenues				
Interest revenues	\$ 130	285	-	-
Investment income	4,656	9,075	-	-
WW Bond Reserve Funds	-	-	-	-
Total Revenues	4,786	9,360	-	-
Expenditures				
Records management	-	-	-	-
Capital outlay	-	67,301	-	-
Other expenses	-	-	-	-
Total Expenditures	-	67,301	-	-
Excess Revenues Over Expenditures	4,786	(57,941)	-	-
Transfer in from General Fund	-	-	-	-
Net Change in Fund Balance	\$ 4,786	(57,941)	-	-

City of Wimberley
Revenues and Expenditures - Nonmajor Funds

Two Months Ended November 30, 2018

	Municipal Court			BHP Development			FM 2325 Sidewalk		
	11/30/2018	YTD	2019 Budget	11/30/2018	YTD	2019 Budget	11/30/2018	YTD	2019 Budget
Total Revenues	\$ 383	946	-	\$ 2	5	18	\$ 0	0	2
Total Expenditures	-	-	-	-	-	-	-	-	-
Excess Revenues Over Expenditures	\$ 383	946	-	\$ 2	5	18	\$ 0	0	2
Fund Transfers	-	-	-	-	-	-	-	-	-
Net Change in Fund Balance	\$ 383	946	-	\$ 2	5	18	\$ 0	0	2



AGENDA ITEM: City Administrator’s Report
SUBMITTED BY: Shawn Cox, City Administrator
DATE SUBMITTED: February 4, 2019
MEETING DATE: February 7, 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 | <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: Lodging Code Amendment – 2nd reading
SUBMITTED BY: Sandy I. Floyd
DATE SUBMITTED: 1/31/19
MEETING DATE: 2/07/19

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.

On January 17th the City Council voted 3-0-0 to approve the amendments as presented.

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

Sec. 9.03.090 Lodging; L-1

- (a) General purpose and description. The L-1, Lodging 1 district is intended primarily for the conduct of small lodging operations that do not typically depend upon frequent customer or client visits.
- (b) Permitted uses.
- (1) Bed and breakfast lodging; maximum of 5 dwelling units in main building;
 - (2) Detached cabins or cottages; maximum of 15 dwelling units;
 - (3) Accessory uses to the main use; and
 - (4) Religious assembly.
- (c) Conditional uses.
- (1) RV park; maximum of 15 sites (dwelling units); and
 - (2) Telecommunications towers, commercial antennas, and broadcast towers, subject to all applicable city regulations.
- (d) Required facilities.
- (1) All bed and breakfast and cabin or cottage units shall have a private bath.
 - (2) Electric, water, and sewer hook-up are required for each RV site.
 - (3) Permanent secure building space is required for storm refuge for RV tenants.
 - (4) A minimum of one bathroom with shower and toilet is required for each 10 RV sites or fraction thereof.
 - (5) A laundromat with one washer and one dryer is required for each 10 dwelling units of all types.
- (e) Development regulations.
- (1) Minimum lot size: One acre.
 - (2) Maximum guest bedrooms (all forms) per acre: 10.
 - (3) Maximum guest bedrooms (all forms): 30.
 - (4) Maximum building height (as defined in section 9.03.005):
 - (A) Primary buildings: Not more than 2 stories and not more than 28 feet with flat roof (see definition) or 35 feet with pitched roof;
 - (B) Accessory buildings: Not more than 18 feet and not more than one story; and
 - (C) Decks: Not more than 12 feet including a railing only or 18 feet including a roof.
 - (5) Minimum floor area of the lodging/service buildings: 600 square feet, plus 200 square feet per guest bedroom, plus 100 square feet per RV space.
 - (6) The minimum setbacks shall be the larger of the dimensions in section 9.03.184(a), table A, or the following:
 - (A) Dominant street: 30 feet;
 - (B) Secondary street: 30 feet;
 - (C) Interior side yard: 10 feet, 30 feet when adjacent to a residential district, 50 feet if the building is more than one story; and
 - (D) Rear yard: 20 feet, 40 feet when adjacent to a residential district, 60 feet if the building is more than one story.
 - (7) Maximum impervious coverage: 70%. Impervious coverage shall be calculated as a percentage of the net site area.
 - (8) Maximum building coverage, including RV parking sites: 50%. Building coverage shall be calculated as a percentage of the net site area.
 - (9) Maximum footprint of the lodging/service building: 2,500 square feet.
- (f) Special requirements.
- (1) Open storage is prohibited.

(2) For site plan requirements, see section 9.03.183.

(3) Recreational vehicles, travel trailers, or motor homes may not be used for on-site dwelling or nonresidential purposes.

(g) Other regulations. As established in division 5 of this article, development standards.

(h) Parking regulations. As required by section 9.03.181, off-street parking and loading requirements.

(Ordinance 2001-010, sec. 33, adopted 4/1/01; Ordinance 2003-006 adopted 7/3/03; 2006 Code, sec. 155.054; Ordinance 2008-023, sec. II(S), adopted 7/17/08; Ordinance 2009-050, sec. II(F), adopted 12/3/09)

Sec. 9.03.091 Lodging; L-2

- (a) General purpose and description. The L-2, Lodging 2 district is intended primarily for the conduct of moderate lodging operations that typically depend upon frequent customer or client visits.
- (b) Permitted uses.
- (1) Hotel or motel; maximum of 30 dwelling units;
 - (2) Detached cabins or cottages; maximum of 30 dwelling units;
 - (3) Accessory uses to the main use; and
 - (4) Religious assembly.
- (c) Conditional uses.
- (1) RV park; maximum of 30 sites (dwelling units);
 - (2) Telecommunications towers, commercial antennas, and broadcast towers, subject to all applicable city regulations; and
 - (3) Eating establishments: sit-down, including the sale of beer, wine, or alcohol for on-premises consumption.
- (d) Required facilities.
- (1) All motel and cabin or cottage units shall have private bath.
 - (2) Electric, water, and sewer hook-up are required for each RV space.
 - (3) Permanent secure building space is required for storm refuge for RV tenants.
 - (4) A minimum of one bathroom with shower and toilet is required for each 10 RV sites or fraction thereof.
 - (5) A laundromat with one washer and one dryer is required for each 10 dwelling units of all types.
- (e) Development regulations.
- (1) Minimum lot size: 2 acres.
 - (2) Maximum guest bedrooms (all forms) per acre: 10.
 - (3) Maximum guest bedrooms (all forms): 60.
 - (4) Maximum building height (as defined in section 9.03.005):
 - (A) Primary buildings: Not more than 2 stories and not more than 28 feet with flat roof (see definition) or 35 feet with pitched roof;
 - (B) Accessory buildings: Not more than 18 feet and not more than one story; and
 - (C) Decks: Not more than 12 feet including a railing only or 18 feet including a roof.
 - (5) Minimum floor area of the lodging/service buildings:
 - (A) Six hundred square feet, plus 200 square feet per internal guest bedroom, plus 100 square feet per RV site; or
 - (B) Six hundred square feet, plus 200 square feet per internal dwelling unit, plus 100 square feet per RV site.
 - (6) The minimum setbacks shall be the larger of the dimensions in section 9.03.184(a), table A, or the following:
 - (A) Dominant street: 30 feet;
 - (B) Secondary street: 30 feet;
 - (C) Interior side yard: 10 feet, 30 feet when adjacent to a residential district, 50 feet if the building is more than one story; and
 - (D) Rear yard: 20 feet, 40 feet when adjacent to a residential district, 60 feet if the building is more than one story.
 - (7) Maximum floor area of the lodging/service building: 15,000 square feet.
 - (8) Maximum impervious coverage: 60%. Impervious³⁵ coverage shall be calculated as a percentage of

the net site area.

(9) Maximum building coverage, including RV parking sites: 50%. Building coverage shall be calculated as a percentage of the net site area.

(10) Maximum building footprint: 7,500 square feet.

(f) Special requirements.

(1) Open storage is prohibited.

(2) For site plan requirements, see section 9.03.183.

(3) Recreational vehicles, travel trailers, or motor homes may not be used for on-site dwelling or nonresidential purposes.

(g) Other regulations. As established in division 5 of this article, development standards.

(h) Parking regulations. As required by section 9.03.181, off-street parking and loading requirements.

(Ordinance 2001-010, sec. 34, adopted 4/1/01; 2006 Code, sec. 155.055; Ordinance 2008-023, sec. II(T), adopted 7/17/08; Ordinance 2009-050, sec. II(F), adopted 12/3/09; Ordinance 2013-014 adopted 8/1/13)

Ordinance No. 2019-xx

“Sale of Alcohol for in Room Consumption/On-Premise Alcohol Sales”

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING CHAPTER 9 (PLANNING & DEVELOPMENT REGULATIONS) ARTICLE 9.03 (ZONING), DIVISION 3 (DISTRICT REGULATIONS), SECTIONS 9.03090 & 9.03091 OF THE CITY OF WIMBERLEY CODE OF ORDINANCES TO PERMIT THE SALE OF ALCOHOL FOR IN ROOM CONSUMPTION; EATING ESTABLISHMENT INCLUDING THE SALE OF BEER, WINE ALCOHOL FOR ON-PREMISE CONSUMPTION; AND BARS/TAVERNS; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALER, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Wimberley (“City Council”) seeks to provide for the orderly arrangement and regulation of compatible uses within its corporate limits; and

WHEREAS, on May 9, 2009, a majority of the voters of Hays County voted to allow the public to purchase alcohol in stores and to purchase and consume alcoholic drinks at restaurants and bars in Justice of the Peace Precinct Three of Hays County; and

WHEREAS, amendments to the City’s Zoning Code are necessary to allow certain sales of alcoholic beverages in order to permit such uses in the City’s various zoning districts; and

WHEREAS, in the course of reviewing the proposed amendments detailed in this Ordinance, the Planning and Zoning Commission and City Council have given careful consideration to the unique qualities of the City, including the demographics of its inhabitants, the City’s history, geography, natural resources, existing structures, property values, workforce, education levels, commercial base, surrounding communities, public facilities, and infrastructure, and

WHEREAS, the Planning and Zoning Commission and City Council have considered, among other things, the character of each zoning district and its peculiar suitability for the particular uses, with a view toward conserving property values and encouraging the most appropriate use of land in the City; and

WHEREAS, the Council finds that the proposed amendment will lessen restrictions and will not impose additional restrictions on certain persons holding a state-issued alcohol license or permit, as permitted by section 109.57(c) of the Texas Alcoholic Beverages Code; and

WHEREAS, the regulations established by this Ordinance are in furtherance of the public interest, for the good government, peace, order, trade, and commerce of the City and necessary and proper for carrying out the power granted by law to the City; and

WHEREAS, the following enactments are a valid exercise of the City’s broad police powers and based on the City’s statutory regulatory authority, including, but not limited to, Texas Local Government Code Chapters 51, 52, and 211; and

WHEREAS, the City Council finds that the provisions of this Ordinance will serve to promote the public health, safety, morals, and general welfare; and

WHEREAS, parties in interest and citizens have had an opportunity to be heard at public hearings conducted by the Planning and Zoning Commission and City Council, notice of which was published in the City’s official newspaper before the 15th day before the first public hearing, and agendas for each hearing were posted at City Hall more than seventy-two (72) hours prior to the respective hearings;

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

SECTION I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this Article as if copied in their entirety.

SECTION II. AMENDMENT

A. The City of Wimberley Code of Ordinances, Chapter 9 (Planning & Development Regulations), Article 9.03 (Zoning), Division 3 (District Regulations), Section 9.03.090 (Lodging; L-1), Subsection B (Permitted Uses), and Subsection C (Conditional Uses) are hereby amended as follows:

“(B) Permitted uses.

- (1) Bed and breakfast lodging; maximum of 5 dwelling units in main building;
- (2) Detached cabins or cottages; maximum of 15 dwelling units;
- (3) Accessory uses to the main use; and
- (4) Religious assembly.
- (5) Sale of beer, wine and alcohol for in room consumption.”

“(C) Conditional uses.

- (1) RV park; maximum of 15 sites (dwelling units); and

(2) Telecommunications towers, commercial antennas, and broadcast towers, subject to all applicable city regulations; and

(3) Eating establishments: sit-down, including the sale of beer, wine, or alcohol for on-premise consumption;”

B. The City of Wimberley Code of Ordinances, Chapter 9 (Planning & Development Regulations), Article 9.03 (Zoning), Division 3 (District Regulations), Section 9.03.091 (Lodging; L-2), Subsection B (Permitted Uses), and Subsection C (Conditional Uses) are hereby amended as follows:

“(B) Permitted uses.

- (1) Hotel or motel; maximum of 30 dwelling units;
- (2) Detached cabins or cottages; maximum of 30 dwelling units;
- (3) Accessory uses to the main use; and
- (4) Religious assembly.
- (5) Sale of beer, wine and alcohol for in room consumption.”

“(C) Conditional uses.

- (1) RV park; maximum of 30 sites (dwelling units); and
- (2) Telecommunications towers, commercial antennas, and broadcast towers, subject to all applicable city regulations; and
- (3) Eating establishments: sit-down, including the sale of beer, wine, or alcohol for on-premises consumption; and
- (4) Bars/taverns;”

SECTION III. SAVINGS

The repeal of any ordinance or part of ordinances effectuated by the enactment of this Article shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this Article.

SECTION IV. SEVERABILITY

Should any sentence, paragraph, subdivision, clause, phrase, or section of this Article be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Article in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

SECTION V. REPEALER

The provisions of this Article shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Article are hereby expressly repealed to the extent that such inconsistency is apparent. This Article shall not be construed to require or allow any act that is prohibited by any other ordinance.

SECTION VI. EFFECTIVE DATE

This Article shall take effect immediately from and after its passage and publication as may be required by law.

SECTION VII. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Article was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED First Reading this 17st day of January, 2019, by a vote of (Ayes) to (Nays) (Abstain) vote of the City Council of the City of Wimberley, Texas.

PASSED AND APPROVED Second Reading this 7th day of February, 2019, by a vote of (Ayes) to (Nays) (Abstain) vote of the City Council of the City of Wimberley, Texas.

Susan Jagers, Mayor

ATTEST:

Laura Calcote,
City Secretary

City Attorney



The Wimberley View CLASSIFIEDS

P.O. Box 49 Wimberley, Texas 78676 512-847-2202

Public Notice Apartments For Rent HALF OFF

City of Dripping Springs Official Request for Bids
 Notice is hereby given that the City of Dripping Springs is soliciting Bids for Ground Maintenance on City Property and Parks.
REQUEST FOR BIDS: "Ground Maintenance on City Property and Parks"
 Sealed Bids, must be submitted in one (1) original, (5) copies, and one (1) electronic copy (in PDF format) on CD or flash drive and shall be delivered to:
 City of Dripping Springs, City Administrator
 511 Mercer St./P.O. 384
 Dripping Springs TX 78629
 Bids must be submitted by 4:00 PM on December 28th, 2018, at which time bids will be publicly opened and read. Bids received after the opening date and time will not be considered.
 Contractors interested in bidding on the City Properties are encouraged to attend a tour of the City Properties on December 21, 2018. If interested in participating in the tour, please contact Craig Rice, Maintenance Director at crice@cityofdrippingsprings.com by 4:00 p.m. on December 20, 2018. The purpose is to ask questions about the contract requirements and to understand the areas to be maintained.
 If additional information is requested please email questions to mulischer@cityofdrippingsprings.com. Bid information may be picked up at the above address or viewed online at the city website at <http://www.cityofdrippingsprings.com>.

NOTICE OF PROPOSED AMENDMENT TO THE CITY OF WIMBERLEY ZONING CODE
 Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, January 10, 2019 at 6:00 p.m. on AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS AMENDING CHAPTER 9 (PLANNING & DEVELOPMENT REGULATIONS) ARTICLES 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, AND EFFECTIVE DATE, AND PROPER NOTICE AND MEETING. Upon recommendation of the Planning & Zoning Commission, the City Council will hold a public hearing and first reading at its regular Council meeting on Thursday, January 17, 2019, and a second reading on Thursday, February 7, 2019 at 5:30 p.m. at City Hall to consider the ordinance referred to herein. Comments from any member of the public may be presented in person at City Hall, by mail (P.O. Box 2027) or email (slloyd@cityofwimberley.com) prior to the hearing. The public will be granted an opportunity to speak at the hearings. Additional information concerning the proposed action is available for review at the Wimberley City Hall, located at 221 Stillwater, Wimberley, Texas 78676.

PUBLIC NOTICE
 Wimberley Medical Plaza, 201 FM 3237, Suite 123, Wimberley, Texas 78676, (upstairs). Feel free to send your resume to ann@wimberleyhomehealth.com, or call 512-847-7080. To learn more about Wimberley Home Health visit www.wimberleyhomehealth.com.

IMMEDIATE HIRE
 For male and female caregivers in surrounding locations. Please contact hiring manager. 830.625.0444.

General Help Wanted

JEWELRY SALE
 Dec. 10th - 24th
 10 am - 4 pm
 10% off all purchases
 1916 Fille Acres Rd
 512-393-9654
 Please call for appointment

Misc. Merchandise

NICE WASHERS
 /dryers/stoves
 \$250/up. Refrigerators \$200/up. Guaranteed Appliances, Sales / Service. 512-392-0373.

General Help Wanted

RIVER RANCH
 3/2 Cottage Home
 17 acres Blanco River
 \$650,000.00
 San Marcos/Kyle
 512-787-0033



Set your sights high.
 With house prices and interest rates down, there's never been a better time to buy a home and get more for your money.
 Wimberley View

Employment

Public Notice Public Notice

General Help Wanted
SEASONAL HELP WANTED!
 River House is hiring a PT sales associate for the holiday season. Seeking personable and friendly individual to join our team!
 References required.

Legal Notice
SALE OF REAL PROPERTY BY PUBLIC AUCTION
 The City of Wimberley will be holding a public auction on December 15, 2018, from 9:00 am to 12:00 pm. The auction will be located at 12111 Ranch Road 12, Unit 204, Wimberley, TX 78676. Items to be included for auction include furniture, tools, office & shop equipment, electronics and appliances. For a detailed list of items please contact the City of Wimberley City Administrator, Shawn Cox, at 512-847-0025, or sccox@cityofwimberley.com.

WE'RE LOOKING FOR YOU

DRIPPING SPRINGS DAIRY QUEEN

NOW HIRING TEAM MEMBERS
IMMEDIATE OPENINGS
 Competitive pay.
 Increasing pay scales.
 Daytime help, Evening and Weekends.
 What We Offer:
 Competitive Pay, Medical, Dental and Vision Benefits,
 Paid Holidays and Vacation, Incentive Pay Potential and Career Advancement.
 Positions for Management and Team Members available in other locations.



AGENDA ITEM: Event Wristbands' Quote
SUBMITTED BY: Rebecca Manning
DATE SUBMITTED: 1/17/19
MEETING DATE: 02/07/19

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Event Wristbands was the lowest quote when Park staff requested quotes from different wristband retailers. Blue Hole Regional Park needs 60,000 wristbands to support a full swim season at the Park. The quote from Event Wristbands is located in the Council Agenda Packet.

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

Budgeted Item	<input checked="" type="checkbox"/>	Original Estimate/Budget:	\$1,500.00
Non-budgeted Item	<input type="checkbox"/>	Current Estimate:	\$1,403.00
Not Applicable	<input type="checkbox"/>	Amount Under/Over Budget:	\$97.00 under

STAFF RECOMMENDATION

Staff recommends to approve this item.



TA Ticket Printing LLC DBA Eventwristbands.com
 1206 Spring Street NW
 Atlanta, GA 30309
 (404)897-2389
 pizzabox@freshtix.com

Estimate

ADDRESS
Rebecca Manning Blue Hole Regional Park 100 Blue Hole Lane Wimberly, TX 78676

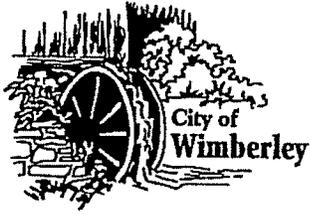
ESTIMATE #	DATE	EXPIRATION DATE
1209	01/17/2019	01/31/2019

ACTIVITY	QTY	RATE	AMOUNT
Wristbands 500 CUSTOM 3/4" Tyvek - Bright Blue	27	11.40	307.80
Wristbands 500 CUSTOM 3/4" Tyvek - Neon Green	27	11.40	307.80
Wristbands 500 CUSTOM 3/4" Tyvek - Neon Yellow	27	11.40	307.80
Wristbands 500 CUSTOM 3/4" Tyvek - Neon Orange	27	11.40	307.80
Wristbands 500 CUSTOM 3/4" Tyvek - Bright Red	12	11.40	136.80
Wristbands Setup Fee - 500 CUSTOM 3/4" Tyvek	1	35.00	35.00
Shipping (Wristbands) FedEx Ground Shipping - FREE!	1	0.00	0.00

TOTAL **\$1,403.00**

Accepted By

Accepted Date



AGENDA ITEM: Sprinkler System Repair
SUBMITTED BY: John Provost
DATE SUBMITTED: 2/1/2019
MEETING DATE: 2/7/2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Approve bid in the amount of \$1,150 from Drippin' Irrigation, a Wimberley company, to repair part of the Wimberley Square irrigation system damaged by a car accident last fall. We received a \$2,900 insurance settlement based on a bid from the company that originally installed the system.

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

Recommend approval



Drippin' Irrigation
 PO Box 1452
 Wimberley, TX 78676
 (512) 690-1730
 drippinirrigation@gmail.com
 www.DrippinIrrigation.com

Estimate 1012

ADDRESS

City of Wimberley

DATE
01/31/2019

TOTAL
\$1,150.00

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
01/31/2019	Irrigation Repair	This estimate is for the repair of an irrigation system that was damaged by a vehicle at the Wimberley square. The estimate includes re-installing the original back flow prevention device and pressure regulating valve, and the installation of a new shut off valve, battery operated controller, drip kit valve, rain sensor, and drip tubing where the damage occurred. It also includes new drip tubing in the empty bed where the stop sign is located at the intersection of Old Kyle Rd and RR12. All beds that were fed from the damaged system will be reconnected to the new equipment.	1	1,150.00	1,150.00

TOTAL

\$1,150.00

THANK YOU.

Accepted By

Accepted Date



AGENDA ITEM: Ordinance No. 2019-03 – Texas Disposal Systems, Inc.
SUBMITTED BY: Laura Calcote, City Secretary
DATE SUBMITTED: February 4, 2019
MEETING DATE: February 7, 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. The first reading was approved by City Council at the January 17th meeting by a 3-0 vote. This will be the second and final reading of this Ordinance.

The Ordinance caption ran in the Wimberley view on Thursday, January 24, 2019. (see attached). 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 second and final 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 twelve percent (12%) 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
	\$45.00	\$46.00	\$48.00	\$49.00	\$51.00	\$52.00	\$54.00	\$55.00	\$57.00	\$59.00
Bulky Pickup – per each 3 CY or partial CY on call	\$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.

The Wimberley View

CLASSIFIEDS



P.O. Box 49 Wimberley, Texas 78676 512-847-2202

Public Notice

Notice of Enactment of 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.

City of Dripping Springs
Public Notice of Ordinance
Ordinance No. 2019-04

AN ORDINANCE AMENDING THE CITY OF DRIPPING SPRINGS CODE OF ORDINANCES CHAPTER 16 "PUBLIC WAYS AND PLACES," ARTICLE 16.02 "PARKS AND RECREATION," DIVISION 2, "PARK RULES," BY AMENDING PROVISIONS AS NECESSARY TO REFLECT THE CHANGE IN NAME OF THE PARKS AND COMMUNITY SERVICES DEPARTMENT, PROVIDING ADDITIONAL DEFINITIONS, UPDATING FIREARMS AND WEAPONS PROVISIONS IN ACCORDANCE WITH STATE LAW, ADDING SPECIFIC RULES FOR DRIPPING SPRINGS RANCH PARK AND THE FARMERS' MARKET FACILITY; PROVIDING FOR A PENALTY OF UP TO \$500.00 UPON CONVICTION FOR VIOLATION; AND PROVIDING THE FOLLOWING: FINDINGS OF FACT; AMENDMENT; REPEALER; SEVERABILITY; CODIFICATION; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

NOTICE OF PROPOSED AMENDMENT TO THE CITY OF WIMBERLEY ZONING CODE

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on **Thursday, February 14, 2019 at 6:00 p.m. on AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS AMENDING CHAPTER 9 (PLANNING & DEVELOPMENT REGULATIONS) ARTICLE 9.03 (ZONING), DIVISION 4, (USE REQUIREMENTS AND RESTRICTIONS) SECTION 9.03.141 (BED AND BREAKFAST LODGING REQUIREMENTS) 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, AND EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.** Upon recommendation of the Planning & Zoning Commission, the City Council will hold a **public hearing and first reading at its regular Council meeting on Thursday, February 21, 2019, and a second reading on Thursday, March 7, 2019 at 5:30 p.m.** at City Hall to consider the ordinance referred to herein. Comments from any member of the public may be presented in person at City Hall, by mail (P.O. Box 2027) or email (sfloyd@cityofwimberley.com) prior to the hearing. The public will be granted an opportunity to speak at the hearings. Additional information concerning the proposed action is available for review at the Wimberley City Hall, located at 221 Stillwater, Wimberley, Texas 78676.

Public Notice

Public Notice

Public Notice

City of Dripping Springs Official Public Notice for Request for Qualifications

The City of Dripping Springs requests the submission of qualifications statements which will lead to the possible award of separate contracts to provide Easement Acquisition Services, Appraiser for Easements; Reviewer Appraiser services for projects involving Wastewater System Improvements. The projects are expected to be funded in part through the Texas Water Development Board's (TWDB) Clean Water (CWSRF) State Revolving Fund and/or Drinking Water (DWSRF) program. The services for Easement Acquisition will be used for the acquisition of certain property easements necessary to complete the project. The services for Appraiser and Appraiser Reviewer will be for the appraisal of certain easements necessary to complete the project. The City will evaluate the proposals for each professional service to determine which firm in each field has the highest qualifications. The special counsel services will be procured through an RFQ proposal process. Proposals must be received no later than 3:00 PM on Friday, February 8, 2019, at the offices of the City of Dripping Springs. ATTENTION: Ginger Faught, Deputy City Administrator, 511 Mercer Street, Dripping Springs, Texas 78620. One (1) original, one (1) electronic and three (3) copies of the proposal must be sealed and clearly marked on the face of the shipping material "Easement Acquisition Services", "Appraiser RFQ", or "Appraiser Reviewer RFQ". This procurement is subject to Environmental Protection Agency requirements in 40 CFR 31.36. Small, minority, and women business enterprises are encouraged to submit qualification statements for consideration. This RFQ includes EPA established MBE/WBE goals: MBE: CONSTRUCTION 19.44%, EQUIPMENT 16.28%, SERVICES 20.41% AND SUPPLIES 25.34%; WBE: CONSTRUCTION 9.17%, EQUIPMENT 11.45%, SERVICES 13.66% AND SUPPLIES 8.82%. The TWDB's DBE website is located at: <http://www.twdb.texas.gov/financial/programs/DBE/index.asp>

PUBLIC NOTICE OF FULL PURPOSE ANNEXATION, PUBLIC HEARINGS # 1 and #2 FOR 14.018 ACRES INCLUDING A PORTION ADJACENT RIGHT-OF-WAY

LEGAL NOTICE IS HEREBY GIVEN under the provisions of Chapter 43 of the Texas Local Government Code that the City of Dripping Springs will hold public hearings during the regularly scheduled City Council meeting on February 12, 2019 at 6:30 p.m. (Public Hearing # 1) and again on February 12, 2019 at 6:35 p.m. (Public Hearing # 2), located at 511 Mercer Street, Dripping Springs, Texas, for the purpose of receiving public comments on the proposed initiation of voluntary annexation proceedings of the following property located in Hays County, Texas, totaling approximately 14.018 acres, to include adjacent right-of-way, also referred to as the Robinson Annexation:

1. 13.127 acres of land out of the Benjamin F. Hanna Survey in Hays County, Texas, being that same property described in a Special Warranty Deed to Virginia Robinson by deed of record in Volume 4800, Page 601, Deed Records of Hays County, Texas; also to include
2. .891 acres out of the Benjamin F. Hanna Survey No. 28, Abstract No. 222, being a variable right-of-way width west of U.S. Highway 290, adjacent to the 13.127 acres.

The annexation petition, including maps, are available for inspection at Dripping Springs City Hall, 511 Mercer Street, Dripping Springs, Texas between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. A Municipal Services Plan for the tract will be available at the public hearing and copies will be available for inspection. After the two (2) required public hearings, the City Council will consider an ordinance for the annexation at their March 5, 2019 City Council meeting. For additional information call City Hall at: (512)-858-4725, or email to acunningham@cityofdrippingssprings.com.

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Insurance
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General Help Wanted

CAREGIVER
Experienced part-time, non-smoking caregiver for disabled Henly woman. Personal care, some housework, errands. (512) 858-4769 or (512) 228-4439.

THE CITY OF WIMBERLEY

is now hiring for the following part-time & seasonal positions at Blue Hole Regional Park: Park Supervisor, Nature Camp Supervisor, Park Attendant, and Camp Counselors. Starting wage for supervisors is \$10.25 per hour. Starting wage for attendants and counselors is \$8.25 per hour. For more information, visit www.cityofwimberley.com or call the Park Office at 512-660-9111. Applications can be picked up at City Hall at 221 Stillwater, Wimberley, TX 78676 or downloaded from the City website. Email Rebecca.Manning@cityofwimberley.com to speak with the hiring contact.



General Help Wanted

IMMEDIATE HIRE
For male and female caregivers in surrounding locations. Please contact hiring manager. 830.625.0444.

SEPTIC OPERATORS AND TECHS WANTED

Backhoe Operator
Skid Loader Operator
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(830) 935-4936

General Help Wanted

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The Wimberley View
PO Box 49, Wimberley
512-847-2202

General Help Wanted

General Help Wanted

NOVA RECOVERY
Nova Recovery Center is hiring Full Time Cooks. Please send your resume to jobs@novarecoverycenter.com or apply online at <https://novarecoverycenter.com/about-us/careers/> Job - Cook (18599)
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General Help Wanted

General Help Wanted

General Help Wanted

San Marcos Daily RECORD
is looking for a **Pressman or Pressman Helper**
Experience in putting ink in fountains, loading plates & catching papers
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1910 IH-35 South
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General Help Wanted

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General Help Wanted

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TexSCAN Week of January 13, 2019

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19.5 acres, Menard County. Gently rolling w/ beautiful oak tree cover. Whitetail, blackbuck, axis, hogs, turkey. \$3,363 down, \$557/mo., (9.9%, 20 years). Several tracts to choose from. 800-876-9720, www.ranchenterprisesltd.com.

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41st Annual Cattleman Bull & Female Sale, 12 Noon, Jan. 19, 2019, El Campo Livestock Auction, El Campo, TX. Adrian Knight Tx Lic #11102 Kelly Conley Tx Lic #9558. 903-452-7591, 903-850-3449, www.cattlemansale.com.

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UNEMPLOYMENT ANSWERS



AGENDA ITEM: Ordinance No. 2019-04 – Attorney/Client Privilege
SUBMITTED BY: Charles Zech, City Attorney
DATE SUBMITTED: January 17, 2019
MEETING DATE: February 7, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Discuss and consider possible action to approve Ordinance No. 2019-04, regarding attorney/client privilege, waiver of attorney/client privilege, and required action by City Council membership to waive attorney/client privilege.

Ordinance No. 2019-04 is attached.

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

ORDINANCE NO. 2019-04

AN ORDINANCE REGARDING ATTORNEY/CLIENT PRIVILEGE, WAIVER OF ATTORNEY/CLIENT PRIVILEGE, AND REQUIRED ACTION BY CITY COUNCIL MEMBERSHIP TO WAIVE ATTORNEY/CLIENT PRIVILEGE.

WHEREAS, the City Council is often placed in the position of receiving privileged and confidential information from its city attorney or other designated attorney representing the City; and

WHEREAS, communications between a client and their attorney is considered confidential under State law; and

WHEREAS, the City Council has determined that it is necessary to preserve that attorney/client privilege and to ensure that any alleged waiver of that privilege comes as a result of specific action by the entire membership of the City Council.

NOW THEREFORE, be it ordained by the City Council of the City of Wimberley, Texas:

Attorney/Client Privilege

- A. No waiver of the attorney/client privilege between the City Council of the City of Wimberley, Texas, and its city attorney or designated attorney representing the city shall occur or be effective unless and until:
 - 1. the issue of waiver of attorney/client privilege must first be a posted item on the City of Wimberley, Texas, City Council Agenda, in accordance with the Texas Open Meetings Act;
 - 2. the item must be fully voted upon by the Council; and
 - 3. said waiver of attorney/client privilege shall only be effective if two-thirds (2/3) of the entire membership of the City Council in such vote shall agree to waive the privilege. Should any court find this provision to be invalid, either on its face or as applied, a majority vote shall nonetheless be required.

- B. In no case shall any action by an individual Councilmember, Officer or Employee of the City of Wimberley constitute a waiver of the attorney/client privilege for the City Council for the City of Wimberley, Texas. The only recognized waiver of attorney/client privilege by the City Council of the City of Wimberley, Texas, is the process delineated in Section "A."

PASSED AND APPROVED on the _____ day of _____, 2019.

Susan Jagers, Mayor

ATTEST:

Laura J. Calcote, City Secretary

APPROVED AS TO FORM:

City Attorney's Office





AGENDA ITEM: Investment Policy
SUBMITTED BY: Shawn Cox, City Administrator
DATE SUBMITTED: February 4, 2019
MEETING DATE: February 7, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

The City is required by State Law (Se. 2256 of the Texas Local Government Code) to review its Investment Policy annually. The City first adopted an Investment Policy in September 2002 and been reviewed each year. No changes to the Policy are recommended at this time.

The City currently has investments in TexPool and a Certificate of Deposit with Ozona Bank.

The Investment Policy does require an Investment Update to be provided to Council quarterly. Upon review, a report has not been presented since 2016. The information has been provided to Council through the monthly Financial Statements, but a report on investment for the first quarter of FY 2019 will be presented to Council in February or March.

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

The City Administrator recommends approval of this item.

ATTACHMENT(S)

- City of Wimberley Investment Policy

Investment Policy

I. Purpose

The purpose of this document is to establish the investment policies for the management of the public funds of the City of Wimberley, Texas (City). This policy will be reviewed on an annual basis by City Council. At such time, the council will adopt a resolution that (1) states that the investment policy has been reviewed and (2) enumerates the changes to be made to the policy.

These policies are designed to ensure the prudent management of public funds, the availability of operating and capital funds when needed, and an investment return competitive with those of comparable funds and financial market indexes.

A copy of this policy will be provided to all business organizations offering to engage in investment transactions with the City. A qualified representative of the business organization must confirm in writing (1) that this policy has been read and thoroughly reviewed and (2) that reasonable controls have been established to preclude unauthorized investment transactions. The City prior to the firm providing any services must receive this confirmation.

II. Statutory Authority

This policy was adopted in accordance with the Public Funds Investment Act (V.T.C.A., Government Code §2256).

III. Policy Scope

This investment policy applies to all of the financial assets (i.e., cash, bank deposits and securities) of the City. These assets are pooled into a single common investment fund that incorporates the following accounting fund types:

- General fund;
- Special revenue funds; and
- Enterprise funds.

Investments in the City's employee deferred compensation plan are independently managed and are not covered by this policy.

IV. Investment Strategy Statement

It is the City's policy to invest public funds in a manner that meets the following objectives:

- Ensure the suitability of the investment to the financial requirements of the City;
- Ensure preservation and safety of capital;
- Provide sufficient liquidity to meet cash flow needs;
- Ensure the marketability of the investments;

- Provide sufficient diversification; and
- Provide a competitive return on investment.

V. Investment Objectives

The following is a detailed discussion of the City's investment objectives, in priority order:

A. Suitability of Investments

Investments shall be made with the primary focus of having cash available to meet the City's financial requirements. This requires that the City match investment maturities with anticipated expenditures.

B. Preservation and Safety of Capital

Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To achieve this objective it is necessary to minimize credit risk and interest rate risk.

Credit risk is the risk of loss due to failure of the security issuer to pay interest and/or principal in a timely manner. It may be reduced by:

- Limiting investments to the safest types of securities;
- Pre-qualifying the business organizations with which the City will do business; and
- Requiring that investments not insured or guaranteed by the United States Government be fully collateralized.

Interest rate risk is the risk that the market value of securities in the portfolio will fall due to changes in general interest rates. The longer the term, the more tendencies there are for rates to fluctuate. Interest rate risk may be reduced by:

- Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity; and
- Investing primarily in shorter-term securities.

Both types of risk may also be controlled through diversification.

C. Liquidity

It is the City's objective that the investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated.

Liquidity is the relative ease with which a security may be converted to cash, typically through sale on the open market. The goals of liquidity and preservation of capital may

conflict at times. While a security may be easily converted to cash, the amount of cash received may be less than the amount initially paid due to fluctuations in market value. For that reason, it is important for the portfolio to be structured so that securities mature concurrent with anticipated cash needs, hereby avoiding the need to liquidate investments under adverse market conditions.

D. Marketability of Investments

Marketability is the availability to quickly purchase and sell a security at competitive prices in secondary markets. Some investments, such as Treasury bills, can be sold at any time. Other more exotic instruments may not be much in demand by other investors and, consequently, may be much harder to sell.

Since all possible cash demands cannot be anticipated, the portfolio should consist of securities with active secondary or resale markets. This will ensure that in the event the City must sell a security, a buyer can be readily found.

At all times, selling a security before maturity may produce a loss. With the exception of the following situations, securities shall not be sold at a loss:

- A security with a declining market value could be sold early to minimize loss;
- A security swap would improve the quality, yield, or target duration in the portfolio;
or
- Liquidity needs of the portfolio require that a security be sold and all other sales would result in a larger loss.

E. Diversification

The constraints established by this investment policy minimize the City's risk exposure. Through diversification, the City can further limit risk exposure. The City will address diversification in its portfolio by not limiting its exposure to any one type of investment, staggering investment maturities, and using several investment providers.

F. Yield

A fundamental rule of investments is that risk equals return. The City has deliberately established a low risk threshold in order to protect its financial resources and ensure that cash is available when needed. Return on investment is the least important objective of the City's investment program. It is anticipated, however, that the City will still earn a competitive rate of return given the level of risk assumed.

VI. Standards of Care

A. Prudence

The standard of prudence to be used by investment officials shall be the “prudent person” standard and shall be applied in the context of managing the overall portfolio, not each investment decision. Investment officers acting in accordance with this investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security’s credit risk or market price changes, provided that the investment decision was consistent with this written policy.

The “prudent person” standard requires that investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of capital as well as the probable income to be derived.

B. Ethics and Conflicts of Interest

Employees involved in the investment process shall refrain from personal business activity that could conflict with the proper executing and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from under-taking personal investment transactions with the same individual with which business is conducted on behalf of the City.

C. Delegation of Authority

The City Administrator shall be responsible for insuring that all of the physical and monetary assets of the City are appropriately safeguarded and controlled and perform any duties of City Treasurer as required by the general laws of the State of Texas. Through the adoption of this policy, the position of City Administrator shall be designated as an investment officer who is responsible for the investment of the City’s funds. In the absence of the City Administrator, the Mayor shall have the responsibility for investment decisions and activities. No person may engage in an investment transaction or the management of funds except as provided under the terms of this Investment Policy as approved by the City Council. The investment authority granted to the investment officer is effective until rescinded by the governing body.

The City Administrator shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.

D. Training

The City Administrator and Finance Officers shall attend at least one training session related to their respective duties within 24 months of assuming office or duties. This training must include education in investment controls, security risks, strategy risks, market risks and compliance with the Public Funds Investment Act.

Both the City Administrator and the Mayor shall receive training as required by state law, which is designed to ensure the continued proper performance of their duties under this policy and the Public Funds Investment Act. The City Administrator and the Mayor shall attend an investment training session no less often than once every two fiscal years commencing February 1, 2009 and shall receive not less than 10 hours of instruction relating to investment responsibilities. The investment training session shall be provided by an independent source approved by the City Council. For purposes of this policy, an “independent source” from which investment training shall be obtained shall include a professional organization, an institute of higher learning or any other sponsor other than a business organization with whom the City of Wimberley may engage in an investment transaction.

DI. Execution of Security Transactions

A. Authorized Financial Dealers and Institutions

A list will be maintained of the business organizations authorized by the City Council to provide investment services. These may include “primary dealers” or regional dealers that qualify under Securities and Exchange Commission Rule 15C3 1 (uniform net capital rule).

All business organizations desiring to become qualified bidders for investment transactions must supply the following, as appropriate:

- Audited financial statements
- Proof of National Association of Securities Dealers (NASD) certification
- Proof of state registration
- Completed broker/dealer questionnaire
- Certification signed by a qualified representative of the firm, of having read and thoroughly reviewed the City’s investment policy and having implemented reasonable procedures and controls in an effort to preclude unauthorized investment transactions. (See Appendix B for an example.)

A qualified representative of a business organization is a person who holds a position with the organization, is authorized to act on behalf of the organization, and who is:

- For organizations regulated or registered with a securities commission, registered under the rules of the National Association of Securities Dealers; or
- For state and national banks and savings banks, a member of the loan committee or authorized by corporate resolution to act on behalf of and bind the banking institution.
- For an investment pool, the person authorized by the elected official or board with authority to administer the activities of the investment pool to sign the written instrument on behalf of the investment.

The City Administrator shall conduct an annual review of the financial condition and registration of qualified business organizations interested in providing investment services for the City. The City Administrator shall recommend six or more qualified bidders to the City Council, which will then select qualified bidders to provide investment services for the City for the next year.

B. Selection of Investments

The City Administrator shall establish a competitive process for the selection of investments.

C. Delivery vs. Payment

With the exception of mutual funds, all investment transactions will be executed by delivery vs. payment (DVP). This requires that the release of funds and the receipt of the investment occur simultaneously.

D. Safekeeping

The City will utilize an independent third party as a custodial agent for safekeeping of the City's investments. Book entry only securities may be held in the custodial agent's account with a Federal Reserve Bank, as long as the custodial agent's internal records clearly indicate the City's ownership of the securities. Any physical securities will be transferred directly to the custodial agent.

Receipts must be issued by the custodial agent for all property received in physical or book entry form. Not less than quarterly, the City should be provided with reports of all assets held in safekeeping.

E. Measuring Market Value

The City shall use The Wall Street Journal or a comparable nationally recognized business publication to measure the market value of its investments. The price quote used will be as of the date of market valuation.

VIII. Internal Controls and Compliance Audit

A. Internal Controls

The City Administrator is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the City are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management.

The internal control structure should address the following points:

- Control of collusion. Collusion is a situation where two or more employees work in conjunction to defraud their employer.
- Separation of transaction authority from accounting and record keeping. By separating the person who authorizes or performs the transactions from the people who record or otherwise account for the transaction, a separation of duties is achieved.
- Custodial safekeeping. Securities purchased from any bank or dealer including appropriate collateral shall be placed with an independent third party for custodial safekeeping.
- Avoidance of physical delivery securities. Book entry securities are much easier to transfer and account for since actual delivery of a document never takes place. Delivered securities must be properly safeguarded against loss or destruction. The potential for fraud and loss increases with physically delivered securities.
- Clear delegation of authority to subordinate staff members. Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control structure that is contingent on the various staff positions and their respective responsibilities.
- Written confirmation of telephone transactions for investments and wire transfers. Due to the potential for error and improprieties arising from telephone transactions, all telephone transactions should be supported by written communications and approved by the appropriate person. Written communications may be via fax if on letterhead and the safekeeping institution has a list of authorized signatures.
- Development of a wire transfer agreement with the lead bank or third party custodial. This agreement should outline the various controls, security provisions, and delineate responsibilities of each party making and receiving wire transfers.

B. Annual Audit

The City Administrator shall establish a process for annual independent review by an external auditor to:

- Assure compliance with policies and procedures; and
- Review monthly investment reports.

This review is to be done in conjunction with the annual audit of the City's financial statements.

IX. Suitable and Authorized Investments

A. Investment Types

The following investments are permitted under this policy.

- Obligations of the United States Government (i.e., treasury bills, treasury notes and treasury bonds):
 - Mutual funds offered by the City's depository bank as part of its cash management program;
 - Certificates of deposit issued by a state or national bank or a savings bank domiciled in the State of Texas; and
 - Demand deposits with state and national banks and savings banks.
 - Statewide investment pools.

B. Collateralization

Certificates of deposit and all other deposits with banks and savings banks shall be 1) guaranteed or insured by the Federal Deposit Insurance Corporation or 2) fully collateralized as required by the Public Funds Investment Act. In order to provide an appropriate level of protection, the market value of the pledged security will be a minimum of 105% of the amount on deposit plus accrued interest.

The City prior to the substitution taking place must approve substitution of collateral in writing.

Collateral will be held by an independent third party. A clearly marked safekeeping receipt showing the securities pledged in the City's name must be provided to the City on a monthly basis.

C. Prohibited Investments

Any investment not specifically authorized by this policy is prohibited. Any investment that is a derivative in nature, even though the underlying asset may meet the guidelines established in this policy, is also prohibited.

D. Additional Qualifications by Investment Type:

1. Mutual Funds

As part of its overall cash management program, the City intends to utilize the automatic investment sweep program offered by its depository bank. This program will enable the City to eliminate idle cash balances in its checking accounts, while ensuring that adequate cash is on hand to meet daily requirements.

For this purpose, the City is authorized to invest in a no-load money market mutual fund, if the mutual fund:

- Is registered with and regulated by the Securities and Exchange Commission;
- Provides the City with a prospectus and any other information required by the Securities Exchange Act of 1934 or the Investment Company Act of 1940;
- Invests exclusively in obligations of the U.S. Treasury and/or repurchase agreements fully collateralized by such obligations;
- Is continuously rated as AAA or its equivalent by at least one nationally recognized rating service;
- Has a dollar-weighted average stated maturity of 90 days or less; and
- Includes in its investment objectives the maintenance of a stable net asset value of \$1 per share.

2. State Wide Investment Pools

Statewide investment pools are separate legal entities established to invest the funds of 2 or more other government entities. The investment pool typically has its own management and investment staff and provides a highly liquid investment option.

In order to be eligible to provide services to the City, investment pools must meet all the requirements of state law as determined under Chapter 2256 of the Government Code, as amended and the following requirements:

- Provide the City with an offering circular and other information required by the Public Funds Investment Act;
- Provide investment transaction confirmations;
- Provide monthly detailed transaction and performance reports as specified by state statute;
- Establish an advisory board composed of qualified members representing participants and non-participants;
- Be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

In addition to the preceding requirements, investment pools created to function, as money market mutual funds must mark-to-market daily and must maintain a market value ratio (market value divided by book value) between .995 and 1.005.

Investment in a particular pool will be made only after a thorough

investigation of the pool and approval by the City Council. The City Administrator shall conduct an annual review of the pools and recommend qualified pools to the City Council, which will then select and adopt a list of approved pools.

With the exception of mortgage backed securities or any other derivative, pools are permitted to invest in a broader range of investment instruments than those authorized under this policy, provided those instruments are authorized under the Public Funds Investment Act.

X. Investment Parameters

A. Investment Management Style

Investment maturities are timed to correspond with anticipated cash requirements and should be purchased at or near par. The City employs a passive management style in which investments are expected to be held to maturity. This does not preclude the use of active portfolio management techniques.

B. Diversification

At the time of purchase, investments will be selected to ensure that the City's portfolio is diversified by security type and institution as follows:

- United States Treasuries;
- No-load money market mutual funds;
- Certificates of deposit within maximum limitation of FDIC and/or collateralization limits.
- Savings bank deposits within maximum limitation of FDIC and/or collateralization limits.
- Authorized investment pools.

C. Maximum Maturities

To the extent possible, the City will attempt to match its investments with anticipated cash flow requirements.

Maximum allowable stated maturities are limited by investment type as follows:

- 3 years for United States treasuries securities;
- 90 days for certificates of deposit; and
- 90 days for no-load money market mutual funds.

XI. Performance Standards

During an environment of stable interest rates, the portfolio should obtain a market average rate of return. Since the City follows a passive investment strategy, the basis used by the City Accountant to determine whether market yields are being achieved shall be the average 90-day Treasury for the month, as quoted in The Wall Street Journal or comparable nationally recognized business publication.

XII. Reporting

The City Administrator or his designee shall prepare an investment report on a quarterly basis that summarizes investment strategies employed in the most recent quarter and describes the portfolio in terms of investment securities, maturities, and shall explain the total investment return for the quarter. The report shall be signed by all designated investment officers and include the statement that the report is in full compliance with the investment strategies as established by the City of Wimberley Investment Policy and Public Funds Investment Act (Government Code Chapter 2256)

The quarterly investment report shall include a summary statement of investment activity prepared in compliance with generally accepted accounting principals. This summary will be prepared in a manner which will allow the City to ascertain whether investment activities during the reporting period have conformed to the Investment Policy. The report will be provided to the City Council. The report will include the following:

- A listing of individual securities held at the end of the reporting period.
- Unrealized gains or losses resulting from appreciation or depreciation by listing the beginning and ending book and market value of securities for the period.
- Additions and changes to the market value during the period.
- Average weighted yield to maturity of portfolio as compared to applicable benchmark.
- Listing of investments by maturity date.
- Fully accrued interest for the reporting period
- The percentage of the total portfolio which each type of investment represents.
- Statement of compliance of the City's investment portfolio with state law and the investment strategy and policy approved by the City Council.

A formal annual review of the quarterly reports will be performed by an independent auditor with the results reported to the governing body.

APPENDIX A: GLOSSARY

ACTIVE PORTFOLIO MANAGEMENT: An approach to investment management in which the investment officer actively trades the portfolio to take advantage of changing market conditions. This style requires the investment officer to develop a comprehensive economic outlook and to take action based upon that outlook. Requires relatively technical knowledge of the investment field.

BENCHMARKS: A measure used to evaluate the effectiveness of the investment program. Suitable benchmarks are readily available and share the characteristics of the portfolio with respect to legal constraints and investment policy compliance. Benchmarks may be published figures or indexes in publications such as the Wall Street Journal or they may be specially created for entity.

BOOK ENTRY SECURITIES: Securities that are purchased, sold and held with only electronic computer entries rather than the transfer of physical certificates. Buyers typically receive receipts or confirmations as evidence of ownership.

BROKER: A party who brings buyers and sellers together. Brokers do not take ownership of the property being traded. They are compensated by commissions.

COLLATERAL: Securities that a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

DEALER: A firm or an individual who buys and sells for his own account. Dealers have ownership, even if only for an instant, between a purchase from one party and a sale to another party. They are compensated by the spread between the price they pay and the price they receive.

DERIVATIVES: Financial instruments whose value depends on the values of underlying assets or indexes.

MARKET VALUE: The price at which a security is trading and could presumably be purchased or sold.

PASSIVE INVESTMENT MANAGEMENT: An approach to investment management in which the investment officer adopts a buy and hold strategy.

Some investment techniques are used. Requires basic level investment knowledge.

PRIMARY DEALERS: A group of securities dealers who are recognized as major participants in the government securities markets and who are willing to market all government securities. Primary dealers must submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its oversight.

RATE OF RETURN: The yield obtainable on a security based on its purchase price or its current market price.

REGIONAL DEALERS: The second tier of broker/dealers (after primary dealers) composed of brokerage firms that specialize in certain market niches, typically on a regional basis.

SAVINGS BANK DEPOSITS: Demand deposits held in an account at a savings and loan association.

SECONDARY MARKET: A market made for the purchase and sale of outstanding debt issues following the initial distribution.

TREASURY BILLS: Short term obligations issued by the United States Treasury. Bills are issued for maturities of one year or less. They do not pay interest but are issued on a discount basis instead.

TREASURY NOTES: Medium term obligations issued by the United States Treasury. Notes are issued for initial maturities over 1 to 10 years.

YIELD: The annual return on an investment expressed as a percentage.

**APPENDIX B: ILLUSTRATIVE BROKER/DEALER
CERTIFICATION FORM**

Broker Dealer Certification Form
(As required by Texas Government Code 2256.005(k))

The City of Wimberley (City) acknowledges that the only means the firm has to preclude unauthorized investment transactions between the firm and the City is to confirm that all provisions of the City's investment policy are followed in investment transactions conducted between the firm and the City, and, the second paragraph below should be read accordingly.

I, _____, as a qualified representative for the firm _____ do hereby certify that I and the broker covering this account, _____, have received and thoroughly reviewed the investment policy of the City of Wimberley.

I acknowledge that this firm has implemented reasonable internal procedures and controls in an effort to preclude investment transactions not authorized by the City's investment policy.

Signature

Name: _____

Title: _____

Date: _____



AGENDA ITEM: City of Wimberley Governance Policy and Rules of Procedure
SUBMITTED BY: Craig Fore, Place Two
DATE SUBMITTED: January 10, 2019
MEETING DATE: February 7, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

At the January 3, 2019 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

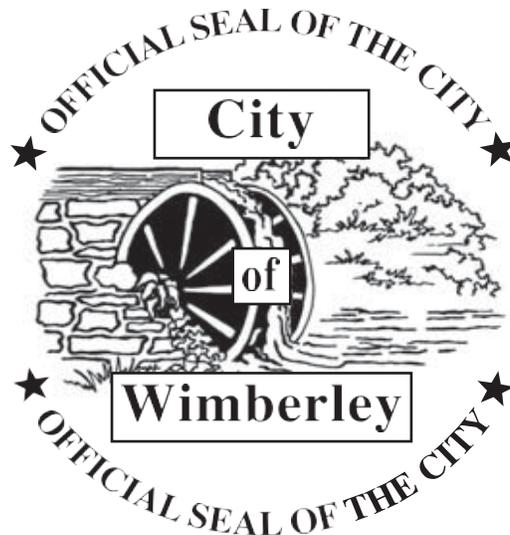
FINANCIAL

- | | | | |
|-------------------|-------------------------------------|---------------------------|----|
| 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

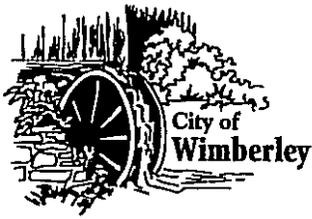
The Mayor and Council are responsible for establishing a vision for the City of Wimberley and planning for its future.

- 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: Reuse of Reclaimed Water from the Central Wimberley Wastewater Project
SUBMITTED BY: Allison Davis, Place Three
DATE SUBMITTED: January 10, 2019
MEETING DATE: February 7, 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.

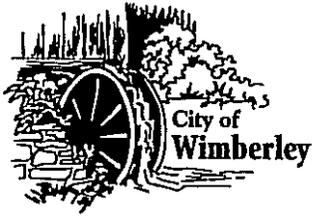
REQUESTED ACTION

- 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: Central Wimberley Wastewater Project
Change of Scope

SUBMITTED BY: Allison Davis, Place Three

DATE SUBMITTED: January 10, 2019

MEETING DATE: February 7, 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



Life's better outside.®

Commissioners

Ralph H. Duggins
Chairman
Fort Worth

S. Reed Morian
Vice-Chairman
Houston

Arch "Beaver" Aplin, III
Lake Jackson

Oliver J. Bell
Cleveland

Anna B. Galo
Laredo

Jeanne W. Latimer
San Antonio

James H. Lee
Houston

Dick Scott
Wimberley

Kelcy L. Warren
Dallas

Lee M. Bass
Chairman-Emeritus
Fort Worth

T. Dan Friedkin
Chairman-Emeritus
Houston

Carter P. Smith
Executive Director

January 22, 2019

Mr. Stephen J. Coonan, P.E.
Principal
Alan Plummer Associates, Inc.
6300 La Calma, Suite 400
Austin, TX 78758

RE: City of Wimberley Wastewater Collection and Treatment System – Notice of Revision to Previously Approved Project, Wimberley, Hays County, Texas

Dear Mr. Coonan:

Texas Parks and Wildlife Department (TPWD) received the coordination request for the above-referenced project located in Hays County. TPWD would like to offer the following information, comments, and recommendations to minimize impacts to fish and wildlife resources.

Please be aware that a written response to a TPWD recommendation or informational comment received by a state governmental agency may be required by state law. For further guidance, see the Texas Parks and Wildlife (TPW) Code section 12.0011. For tracking purposes, please refer to TPWD project number 41131 in any return correspondence regarding this project.

Project Description

Project History

The City of Wimberley (City) previously received approval from the Texas Water Development Board (TWDB) Clean Water State Revolving Fund Tier III loan to fund the proposed Village of Wimberley Wastewater Collection and Treatment System project. As part of the review process for the loan, an Environmental Information Document was developed and made available for public review as well as for coordination with agencies.

The TWDB issued a Finding of No Significant Impact for the project on August 6, 2014. The City has determined that it is in its best interest to make modifications to the project. Specifically, the City has decided to cancel the construction of its own wastewater treatment plant and to send the wastewater to Aqua Texas, a neighboring utility, for treatment. This change will require a redirection of the previously proposed force main. The new alignment for the force main will carry flow under Cypress Creek to the Aqua Texas system. The pipe will be installed under Cypress Creek using the hydraulic directional drilling (HDD) method, which will limit surface disruption to the entry and exit pits. In addition, the City intends to construct a reclaimed water line at some point in the future to bring

treated effluent back to the Blue Hole Park for irrigation. The construction of the reclaimed line will be dependent on additional funds being dedicated at some point in the future and is not needed to provide the desired wastewater management services to the Central Wimberley area (the reclaimed pipeline is not included in this project review, as it is not being proposed at this time).

Project as Currently Proposed

The City of Wimberley proposes to construct a wastewater collection system to serve central Wimberley. The project includes the installation of approximately 11,000 linear feet of gravity sewer lines, one lift station, and approximately 5,000 linear feet of force main. The wastewater will be conveyed via the force main under Cypress Creek and connect to the collection system of a neighboring utility owned and operated by Aqua Texas. The wastewater will be treated at an existing wastewater treatment plant owned and operated by Aqua Texas. The plant has the capacity to treat this additional waste without needing to be expanded. The plant is a no-discharge facility that sprays treated effluent on a golf course. As a requirement of the contract with the City of Wimberley, Aqua Texas will upgrade its treatment facility to provide Type I reclaimed water that will be available to the City in the future. The majority of the improvements will be constructed in public rights-of-way. The City has obtained several easements for this project for the installation of pipelines and the construction of the lift station where private property had to be crossed. Construction will partially take place within the limits of the Blue Hole Regional Park which is owned by the City of Wimberley.

Previous Coordination

TPWD provided information and recommendations regarding the proposed project to Alan Plummer Associates, Inc. on May 12, 2014. This response was included with the revised project coordination request that was sent to the TPWD Habitat Assessment Program on November 29, 2018.

Recommendation: Please review previous TPWD correspondence and consider the recommendations provided, as they remain applicable to the project as proposed.

General Construction Recommendations

The coordination request did not include any information regarding pre-construction, construction, or post-construction best management practices (BMPs); therefore, TPWD would like to provide the following general construction recommendations to assist in project planning.

Recommendation: TPWD recommends the judicious use and placement of sediment control fence to exclude wildlife from the construction area. In many cases, sediment control fence placement for the purposes of controlling erosion and protecting water quality can be modified minimally to also provide the benefit of excluding wildlife access to construction areas. The exclusion fence should be buried at least six inches and be at least 24 inches high. The exclusion fence should be maintained for the life of the project and only removed after the construction is completed and the disturbed site has been revegetated. Construction personnel should be encouraged to examine the inside of the exclusion area daily to determine if any wildlife species have been trapped inside the area of impact and provide safe egress opportunities prior to initiation of construction activities. TPWD recommends that any open trenches or excavation areas be covered overnight and/or inspected every morning to ensure no wildlife species have been trapped. For open trenches and excavated pits, install escape ramps at an angle of less than 45 degrees (1:1) in areas left uncovered. Also, inspect excavation areas for trapped wildlife prior to refilling.

Recommendation: For soil stabilization and/or revegetation of disturbed areas within the proposed project area, TPWD recommends erosion and seed/mulch stabilization materials that avoid entanglement hazards to snakes and other wildlife species. Because the mesh found in many erosion control blankets or mats pose an entanglement hazard to wildlife, TPWD recommends the use of no-till drilling, hydromulching and/or hydroseeding due to a reduced risk to wildlife. If erosion control blankets or mats will be used, the product should contain no netting or contain loosely woven, natural fiber netting in which the mesh design allows the threads to move, therefore allowing expansion of the mesh openings. Plastic mesh matting should be avoided.

Managed Areas

As previously mentioned, part of the proposed project is located within Blue Hole Regional Park. Blue Hole Regional Park has received federal and state funds from TPWD's Local Park Grants program on two separate occasions as listed below:

- Federal (Land and Water Conservation Fund [LWCF]) funding of \$1,908,500 in Fiscal Year 2005;
- State funding of \$500,000 in Fiscal Year 2009.

Chapter 26 of the Texas Parks and Wildlife Code provides that a department, agency, political subdivision, county, or municipality of this state may not approve any program or project that requires the use or taking of public lands unless it

Mr. Stephen J. Coonan, P.E.
Page 4 of 14
January 22, 2019

holds a public hearing and determines that there is “no feasible and prudent alternative to the use or taking of such land,” and the project “includes all reasonable planning to minimize harm to the land...resulting from the use or taking.”

In addition to the Chapter 26 requirements discussed above because TPWD Local Park Grant funds were used for Blue Hole Regional Park, coordination with the Grants-In-Aid Branch of TPWD and local park administrators is necessary to prevent conversion of grant assisted lands to other than public outdoor recreation use as prohibited by Section 6(f) of the LWCF Act.

Recommendation: TPWD recommends coordinating with the Grants-In-Aid Branch of TPWD for this project. This coordination is recommended to prevent a conversion of grant-assisted lands to other than public outdoor recreation use as prohibited the LWCF Act or identify substitution properties of reasonably equivalent usefulness and location. An LWCF Act evaluation may be required.

Impacts to Vegetation/Wildlife Habitat

There were no details provided on existing vegetation, vegetation removal, or revegetation; therefore, TPWD has provided the following recommendation to assist in project planning.

Recommendation: TPWD recommends reducing the amount of vegetation proposed for clearing if at all possible and minimizing clearing of native vegetation, particularly mature native trees, riparian vegetation, and shrubs to the greatest extent practicable. TPWD recommends in-kind on-site replacement/restoration of the native vegetation wherever practicable. Colonization by invasive species, particularly invasive grasses and weeds, should be actively prevented. Vegetation management should include removing invasive species early on while allowing the existing native plants to revegetate the disturbed areas. TPWD recommends referring to the Lady Bird Johnson Wildflower Center Native Plant Database for regionally adapted native species that would be appropriate for landscaping and revegetation.

Landscaping for Monarch Butterflies

Significant declines in the population of migrating monarch butterflies (*Danaus plexippus*) have led to widespread concern about this species and the long-term persistence of the North American monarch migration. As part of an international conservation effort TPWD has developed the *Texas Monarch and Native*

Pollinator Conservation Plan, and one of the broad categories of action in this plan is to augment larval feeding and adult nectaring opportunities.

Recommendation: TPWD recommends incorporating pollinator conservation and management into the landscaping and maintenance plan for this project, such as promoting growth of native flowering species throughout the growing season and conducting mowing and herbicide activities to minimize loss to floral resources. TPWD recommends revegetation efforts include planting or seeding native milkweed (*Asclepias* spp.) and nectar plants as funding and seed availability allow. Information about monarch biology, migration, and butterfly gardening can be found on the Monarch Watch website.

Edwards Aquifer

The proposed project is located within the Edwards Aquifer Contributing Zone. The Contributing Zone occurs on the Edwards Plateau, also called the Texas Hill Country. It is about 5,400 square miles, and elevations range between 1,000 and 2,300 feet above sea level. The rugged, rolling topography is covered with thick woodlands of oak and cedar. The Edwards Plateau is home to several endangered species and is itself the subject of increasing environmental concerns. The contributing zone is also called the drainage area or the catchment area. Here the land surface "catches" water from rainfall that averages about 30 inches per year, and water runs off into streams or infiltrates into the water table aquifer of the plateau. Runoff from the land surface and water table springs then both feed streams that flow over relatively impermeable limestones until they reach the recharge zone.

Recommendation: TPWD recommends ensuring that precipitation runoff, which could potentially carry pollutants, is intercepted and treated before reaching sensitive features on and off the project site by utilizing stormwater control BMPs. TPWD recommends installing erosion and sediment control BMPs that would aide in construction stabilization. Erosion and sediment control measures include temporary or permanent seeding (with native plants), mulching, earth dikes, silt fences, sediment traps, and sediment basins. Examples of post-construction BMPs include vegetation systems (biofilters) such as grass filter strips and vegetated swales as well as retention basins capable of treating any additional runoff that may occur from the construction of the proposed project. Please refer to the *General Construction Recommendations* section of this letter for erosion and seed/mulch stabilization materials TPWD recommends utilizing and avoiding.

Water Resources

As previously mentioned, the project as currently proposed includes the construction of a new force main which will carry flow under Cypress Creek to the Aqua Texas system. The new alignment for the pipe will be installed under Cypress Creek using HDD. HDD projects, while minimizing impacts to stream beds, can still have the following impacts: geotechnical work in the stream bed, water uptake and discharge during HDD installation, and the potential for the release of drilling fluid (frac-out).

Recommendation: TPWD recommends locating water intake and/or discharge points in areas that minimize impacts to species that are dependent on water quality and quantity upstream and downstream. TPWD also recommends measures be taken to minimize sedimentation impacts from the water uptake and geotechnical borings, such as installation of silt fences. A qualified biologist should determine the presence/absence of protected aquatic species at the proposed boring and water uptake locations and any other areas that would be impacted prior to work being conducted.

The potential exists for a frac-out to occur during the HDD crossings. A frac-out occurs when drilling fluid is inadvertently released from the drill hole to the surface of the soil or streambed. Drilling fluid is primarily water with bentonite clay added. Bentonite is a non-toxic fine clay material that enhances the lubricating, spoil transport, and caking properties of the drilling fluid. The primary areas of concern for inadvertent releases occur at the entrance and exit points where the drilling equipment is at shallower depths. The likelihood of inadvertent return decreases as the depth of the pipe increases.

Recommendation: To reduce the potential of a frac-out affecting the streambed, TPWD recommends the entrance and exit points for drilling be located at least 500 feet from the streambed. TPWD also recommends that a frac-out spill containment plan and HDD contingency plan be prepared prior to initiating work. Due to the environmentally sensitive nature of the project area, TPWD also recommends installing secondary containment around the pipeline to ensure protection of the Edwards Aquifer as well as any rare or protected species that may inhabit Cypress Creek.

Ecologically Significant Stream Segment

The proposed project will cross Cypress Creek (via HDD) and will be located in close proximity to the Blanco River as well. Cypress Creek and the Blanco River have been designated as Ecologically Significant Stream Segments (ESSSs). TPWD has identified ESSSs throughout the state to assist regional water planning

Mr. Stephen J. Coonan, P.E.
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groups in identifying ecologically unique stream segments under Texas Administrative Code (TAC) Title 31 357.43 and 358.2. Until approved by the legislature, this is not a legal designation. The stream segments are identified through extensive review by TPWD staff and are determined to be ecologically important due to one or more of the following criteria: biological function; hydrologic function; riparian conservation areas; high water quality/exceptional aquatic life/high aesthetic value; or threatened or endangered species/unique communities. Additional information on ESSs may be found on TPWD's website.

Recommendation: TPWD recommends ensuring that precipitation runoff, which could potentially carry pollutants, is intercepted and treated before reaching water features located within the project area by utilizing stormwater control BMPs. Examples of different types of erosion and sediment control measures can be found in the *Edwards Aquifer* section of this letter. Please also refer to the *General Construction Recommendations* section of this letter for erosion and seed/mulch stabilization materials TPWD recommends utilizing and avoiding.

Federal Laws

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) prohibits direct and affirmative purposeful actions that reduce migratory birds, their eggs, or their nests, by killing or capturing, to human control, except when specifically authorized by the Department of the Interior. This protection applies to most native bird species, including ground nesting species. The U.S. Fish and Wildlife Service (USFWS) Migratory Bird Office can be contacted at (505) 248-7882 for more information on potential impacts to migratory birds.

Recommendation: If migratory bird species are found nesting on or adjacent to the project area, they must be dealt with in a manner consistent with the MBTA. TPWD recommends excluding vegetation clearing activities during the general bird nesting season, March 15 through September 15, to avoid adverse impacts to breeding birds. If clearing vegetation during the migratory bird nesting season is unavoidable, TPWD recommends surveying the area proposed for disturbance to ensure that no nests with eggs or young will be disturbed by operations. TPWD recommends that a minimum 150-foot buffer of vegetation remain around any nests that are observed prior to disturbance. Any vegetation (such as trees, shrubs, and grasses) or other open areas where occupied nests are located should not be disturbed until the eggs have hatched and the young have fledged.

Endangered Species Act

Federally-listed animal species and their habitats are protected from “take” on any property by the Endangered Species Act (ESA). Take of a federally-listed species can be allowed if it is “incidental” to an otherwise lawful activity and must be permitted in accordance with Section 7 or 10 of the ESA. Federally-listed plants are not protected from take except on lands under federal/state jurisdiction or for which a federal/state nexus (i.e., permits or funding) exists. Any take of a federally-listed species or its habitat without the required take permit (or allowance) from the USFWS is a violation of the ESA.

Golden-cheeked warbler (*Setophaga chrysoparia*)

There may be suitable habitat for the federally- and state-listed endangered golden-cheeked warbler within the project area. This species nests only in Central Texas in mixed Ashe juniper and oak woodlands. Golden-cheeked warblers eat insects and spiders found on the leaves and bark of oaks and other trees and use long strips of Ashe juniper bark and spider webs to build their nests. They come to Texas in March to nest and raise their young, and leave in July to spend the winter in Mexico and Central America. There are two Texas Natural Diversity Database (TXNDD) records for the golden-cheeked warbler located within 0.5 mile of the project area. Two online citizen science databases (iNaturalist and eBird) also include observations for the golden-cheeked warbler within Blue Hole Regional Park, including observations along Cypress Creek in the general vicinity of the proposed force main (with observations recorded as recently as June 2018). TPWD notes that a predictive habitat model for the golden-cheeked warbler (Diamond 2007) also indicates that suitable habitat for this species is likely to be present in the project area (Figure 1).



Figure 1. Potentially suitable golden-cheeked warbler habitat in the vicinity of the proposed project area, Hays County, Texas.

Recommendation: Prior to any vegetation clearing, TPWD recommends surveying for suitable golden-cheeked warbler habitat within the project area according to USFWS guidelines, particularly within 300 feet of the project site. Even if habitat for this species would not be directly impacted by vegetation removal, if nesting pairs are present in the surrounding vegetation they could be disrupted by noise and activity during construction. Because the definition of take in the ESA includes harming or harassing a listed species, this disturbance could constitute a violation of the ESA. If suitable habitat for this species is present within the project area, TPWD recommends assuming presence for the species and conducting project activities outside of the breeding and nesting season in any area where suitable habitat may occur (**with the appropriate authorization from the USFWS**). TPWD recommends contacting the USFWS for species occurrence data, guidance, permitting, survey protocols, and mitigation for this federally-listed species, if coordination has not been initiated to date.

State Laws

Parks and Wildlife Code – Chapter 64, Birds

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TPW Code section 64.002, regarding the protection of nongame birds, provides that no person may catch, kill, injure, pursue, or possess a bird that is not a game bird. TPW Code Section 64.003, regarding destroying nests or eggs, provides that, no person may destroy or take the nests, eggs, or young and any wild game bird, wild bird, or wild fowl. TPW Code chapter 64 does not allow for incidental take and therefore is more restrictive than the MBTA.

Recommendation: Please review the *Migratory Bird Treaty Act* section above for recommendations as they are also applicable for chapter 64 of the Parks and Wildlife Code compliance.

Parks and Wildlife Code, Section 68.015, State-listed Species

Section 68.015 of the TPW Code regulates state-listed species. Please note that there is no provision for the capture, trap, take, or kill (incidental or otherwise) of state-listed species. The *TPWD Guidelines for Protection of State-Listed Species*, which includes a list of penalties for take of species, can be found on the Wildlife Habitat Assessment Program website. State-listed species may only be handled by persons with authorization obtained through TPWD. For more information on this permit, please contact the Wildlife Permits Office at (512) 389-4647.

Cagle's map turtle (*Graptemys caglei*)

There is one TXNDD record for the state-listed threatened Cagle's map turtle located just outside of the project area within the Blanco River. There may be suitable habitat for this species within Cypress Creek. Cagle's map turtle is endemic and found within the Guadalupe River System. This species inhabits shallow water with swift to moderate flow and gravel or cobble bottom as well as areas connected by deeper pools with a slower flow rate and a silt or mud bottom. Gravel bar riffles and transition areas between riffles and pools are especially important in providing insect prey items. Cagle's map turtle nests on gently sloping sand banks within approximately 30 feet of the water's edge.

Recommendation: TPWD recommends entrance and exit points for HDD under Cypress Creek be located at least 500 feet from the streambed to avoid any potential disturbance of nesting Cagle's map turtles. All waterways and associated floodplains, riparian corridors, and wetlands provide valuable wildlife habitat and should be protected to the maximum extent possible. Natural buffers contiguous to any wetlands or aquatic systems should remain undisturbed to preserve wildlife cover, food sources, and travel corridors. During construction, trucks and equipment should use existing bridge or culvert structures to cross creeks, and equipment staging areas should be located in previously disturbed areas outside of riparian corridors. Destruction

of inert microhabitats in waterways such as snags, brush piles, fallen logs, creek banks, pools, and gravel stream bottoms should be avoided, as these provide habitat for a variety of fish and wildlife species and their food sources.

Recommendation: TPWD recommends ensuring that precipitation runoff, which could potentially carry pollutants, is intercepted and treated before reaching water features located within the project area by utilizing stormwater control BMPs. Examples of different types of erosion and sediment control measures can be found in the *Edwards Aquifer* section of this letter. Please also refer to the *General Construction Recommendations* section of this letter for erosion and seed/mulch stabilization materials TPWD recommends utilizing and avoiding.

Rare Species

In addition to state and federally-protected species, TPWD tracks special features, natural communities, and rare species that are not listed as state or federally threatened or endangered. These species and communities are tracked in the TXNDD, and TPWD actively promotes their conservation. TPWD considers it important to evaluate and, if necessary, minimize impacts to rare species and their habitat to reduce the likelihood of endangerment and preclude the need to list as threatened or endangered in the future.

Blanco River springs salamander (*Eurycea pterophila*)

There is one TXNDD record for the Blanco River springs salamander located just outside of the project area approximately 0.20 mile from Cypress Creek. The Blanco River springs salamander is a subaquatic species that inhabits springs and caves within the Blanco River drainage.

Recommendation: TPWD recommends taking measures to avoid impacts to aquatic and riparian habitats, which would minimize impacts to aquatic species such as the Blanco River Springs salamander. Impacts to springs should also be avoided.

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Guadalupe bass (*Micropterus treculii*)

There is one TXNDD record for the Guadalupe bass located just outside of the project area within the Blanco River. The Guadalupe bass is endemic to perennial streams of the Edward's Plateau region and has been introduced in Nueces River system.

Texas shiner (*Notropis amabilis*)

There is one TXNDD record for the Texas shiner located just outside of the project area within the Blanco River. The Texas shiner can be found from the Rio Grande to Colorado River drainages and ranges primarily within Edwards Plateau streams including portions of the San Gabriel River on the northeast and to the Pecos River in the west.

Recommendation: Please see the recommendations in this letter for the Cagle's map turtle as those recommendations are applicable to the Guadalupe bass and the Texas shiner. TPWD also recommends avoiding construction during the spawning period of the Guadalupe bass and the Texas shiner if feasible. Avoiding construction during a species' spawning period may reduce the potential for adverse impacts to water quality and the habitat of these species.

Texas barberry (*Berberis swaseyi*)

There is one TXNDD record for Texas barberry located within the project area. This species is found in hallow calcareous stony clay of upland grasslands/shrublands over limestone as well as in loamier soils in openly wooded canyons and on creek terraces. Texas barberry is perennial and flowers/fruits March through June.

Recommendation: TPWD recommends surveying the project area for Texas barberry where suitable habitat may be present, prior to construction. The survey should be performed by a qualified biologist at the time of year when this species is most likely to be found, usually during the flowering period. If this species is present, plans should be made to avoid adverse impacts to the greatest extent possible. If plants are found in the path of construction, including the placement of staging areas and other project related sites, this office should be contacted for further coordination and possible salvage of plants and/or seeds for seed banking. Plants not in the direct path of construction should be protected by markers or fencing and by instructing construction crews to avoid any harm.

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Recommendation: Please review the TPWD county list for Hays County, as rare and protected species in addition to those discussed in this letter could be present depending upon habitat availability. The USFWS should be contacted for species occurrence data, guidance, permitting, survey protocols, and mitigation for federally-listed species.

Determining the actual presence of a species in a given area depends on many variables including daily and seasonal activity cycles, environmental activity cues, preferred habitat, transiency and population density (both wildlife and human). The absence of a species can be demonstrated only with great difficulty and then only with repeated negative observations, taking into account all the variable factors contributing to the lack of detectable presence. If encountered during construction, measures should be taken to avoid impacting all wildlife.

Texas Natural Diversity Database

The TXNDD is intended to assist users in avoiding harm to rare species or significant ecological features. Given the small proportion of public versus private land in Texas, the TXNDD does not include a representative inventory of rare resources in the state. Absence of information in the database does not imply that a species is absent from that area. Although it is based on the best data available to TPWD regarding rare species, the data from the TXNDD do not provide a definitive statement as to the presence, absence or condition of special species, natural communities, or other significant features within your project area. These data are not inclusive and **cannot be used as presence/absence data**. They represent species that could potentially be in your project area. This information cannot be substituted for field surveys. The TXNDD is updated continuously based on new, updated and undigitized records; therefore, TPWD recommends requesting the most recent TXNDD data on a regular basis. For questions regarding a record or to request the most recent data, please contact TexasNatural.DiversityDatabase@tpwd.texas.gov.

Recommendation: To aid in the scientific knowledge of a species' status and current range, TPWD encourages reporting all encounters of rare, state-listed, and federally-listed species to the TXNDD according to the data submittal instructions found on the TXNDD website.

TPWD strives to respond to requests for project review within a 45 day comment period. Responses may be delayed due to workload and lack of staff. Failure to meet the 45 day review timeframe does not constitute a concurrence from TPWD that the proposed project will not adversely impact fish and wildlife resources.

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TPWD advises review and implementation of these recommendations. If you have any questions, please contact me by phone at (512) 389-8054 or by email at Jessica.Schmerler@tpwd.texas.gov.

Sincerely,



Jessica E. Schmerler
Wildlife Habitat Assessment Program

JES;jn.41131

Reference

Diamond, et al. 2007. *Range-wide Modeling of Golden-cheeked Warbler Habitat*. Section 6 Project E-72-R, Final Report, Texas Parks and Wildlife Department, Austin, Texas



AGENDA ITEM: Legal Expenditures
SUBMITTED BY: Allison Davis, Place Three
DATE SUBMITTED: January 10, 2019
MEETING DATE: February 7, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Discuss and consider possible action regarding legal expenditures.

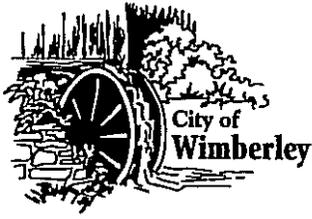
REQUESTED ACTION

- 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: **Patio Kitchen Area**
SUBMITTED BY: Susan Jagers
DATE SUBMITTED: February 4, 2019
MEETING DATE: February 7, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Discuss and consider possible action regarding the purchase of supplies for the patio kitchen area.

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: HVLWC Improvement
SUBMITTED BY: Mayor
DATE SUBMITTED: 14 Jan 2019
MEETING DATE: 7 Feb 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Address Fish Passage and Water Levels at the HVLWC

REQUESTED ACTION

- Motion
- Discussion

TOPIC

Project Goals Fish Ramp Modifications to address TPW needs

- a. Modifications to accomplish a higher river elevation just Upstream of the crossing
- b. Modifications to potentially increase water flow/discharge just Downstream of the crossing

Prelim Scope of Work (Tasks with Est. Budgets):

- Site As Built Survey & River Flow Calibration Measurements (coordinate with TPW) **\$8,100**
- Data Calibration, Prepare 3D Hydraulic Model **\$20,000**
- Design & Construction Documents (Plans & Specifications) **\$11,000**
- Prepare Engineer's Preliminary Cost for Construction Estimate **\$3,400**
- Bid Phase Services (PreBid Conference, Address/Issue Addendums, Assess Bids, Provide Letter of Recommendation to City) **\$4,100**
- Construction Phase Services (Address Contractor RFIs/Submittals, Site Observations, Review Contractor Pay Applications) **\$12,800**
- Prepare Plan of Records utilizing Contractor As-Builts/ Project Closeout **\$4,900**
- Reimbursibles for Direct Expenses (ie. mileage, printing, courier, etc.) **Cost + 10%**

Total \$64,300

Seek fund-share from the TPW, as the primary goal of this project is an effective Fish Ramp.



AGENDA ITEM: Cypress Creek Nature Preserve Trail
SUBMITTED BY: Susan Jagers
DATE SUBMITTED: February 4, 2019
MEETING DATE: February 7, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Discuss and consider possible action regarding the Cypress Creek Nature Preserve Trail.

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: Computer Reimbursement
SUBMITTED BY: Susan Jagers
DATE SUBMITTED: February 4, 2019
MEETING DATE: February 7, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Discuss and consider possible action regarding a reimbursement to Mayor Jagers for the purchase of a desktop computer.

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: Possible FY 2019 Budget Amendment
SUBMITTED BY: Shawn Cox, City Administrator
DATE SUBMITTED: February 4, 2019
MEETING DATE: February 7, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

If approved, items J, K, & M will require a budget amendment. An amendment could include the use of unobligated fund balance, a reduction of budgeted line items, or a combination of both. The City Administrator is seeking direction on how to fund the budget amendment. Based on the direction provided a Resolution to adopt FY 2019 Budget Amendment No. 2 will be presented to Council at the next meeting for consideration.

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

ATTACHMENT(S)



AGENDA ITEM: Meeting Schedule
SUBMITTED BY: Susan Jagers
DATE SUBMITTED: February 4, 2019
MEETING DATE: February 7, 2019

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Discuss and consider possible action regarding the regular City Council meeting schedule.

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: Place Five Appointment
SUBMITTED BY: Laura Calcote, City Secretary
DATE SUBMITTED: February 4, 2019
MEETING DATE: February 7, 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.

At the January 17th City Council Meeting, Council nominated and appointed Patrick Rehmet to fill the Place Five vacancy by a 3-0 vote. However, Mr. Rehmet withdrew his appointment to City Council after the meeting (see attached email). Therefore, Place Five is still vacant until Council nominates and appoints a new member.

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

N/A

Laura Calcote

From: Shawn Cox
Sent: Monday, January 28, 2019 3:48 PM
Cc: Laura Calcote
Subject: FW: Possible Meeting Date Change

Mayor & Council,

Please see below. We will include an item on the next agenda for consideration of a replacement for Position 5.

Sincerely,
Shawn

From: Patrick Rehmet <prehmet@austin.rr.com>
Sent: Monday, January 28, 2019 9:58 AM
To: Shawn Cox <Scox@cityofwimberley.com>
Subject: Re: Possible Meeting Date Change

Shawn,

I have withdrawn from my appointment, as I do not live in the City, since the 2015 Flood.
Pat

From: Sean Cox <scox@cityofwimberley.com>
Date: Monday, January 28, 2019 at 9:05 AM
Cc: 'Charles Zech' <charles.zech@rampage-sa.com>, John Provost <jprovost@cityofwimberley.com>, Laura Calcote <lcalcote@cityofwimberley.com>, Monica Alcala <malcala@cityofwimberley.com>, Rebecca Manning <RManning@cityofwimberley.com>, Sandra Floyd <sfloyd@cityofwimberley.com>, Terri Provost <director@wimcc.org>
Subject: Possible Meeting Date Change

Council,

We have received a request from the Mayor to re-schedule the first meeting in February to Tuesday, February 5. Please let me know your availability.

Sincerely,
Shawn

Shawn Cox
City Administrator
City of Wimberley

P: 512-847-0025