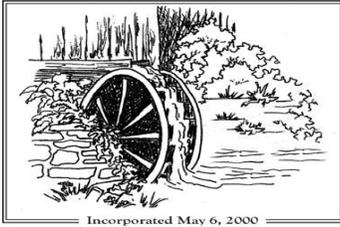


**REGULAR CITY  
COUNCIL MEETING  
PACKET**

**Thursday, April 18, 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, APRIL 18, 2019 – 5:30 P.M.**

## **AGENDA**

1. **CALL TO ORDER** April 18, 2019 at 5:30 p.m.
2. **CALL OF ROLL** City Secretary
3. **INVOCATION**
4. **PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG**
5. **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.*
6. **PRESENTATION AND POSSIBLE ACTION**  
Presentation and consider possible action regarding the draft Cypress Creek Nature Trail and Preserve Master Plan. (*Wimberley Valley Watershed Association Executive Director David Baker*)
7. **EXECUTIVE SESSION**  
*In accordance with Texas Government Code, Chapter 551, Subchapter D, the City Council may convene in a closed session. After the Executive Session, discussion on any of the following items, any final action or vote taken will be in public.*
  - A. Executive Session pursuant to Texas Government Code, Section 551.071 (Consultation with Attorney) to receive legal advice regarding an Aqua Texas contract.
  - B. Executive Session pursuant to Texas Government Code, Section 551.071 (Consultation with Attorney) to receive legal advice regarding the issuance of City of Wimberley Series 2019 bonds.

**8. OPEN SESSION**

- A. Discuss and consider possible action to authorize the City of Wimberley to execute an agreement with Aqua Texas.
  
- B. Discuss and consider possible action to approve Ordinance No. 2019-09, authorizing the issuance of “City of Wimberley, Texas exchange refunding bonds, Series 2019”; providing for the payment of said bonds by the levy of an ad valorem tax upon all taxable property within the City and further securing said bonds by a lien on and pledge of the pledged revenues of the system; providing the terms and conditions of said bonds and resolving other matters incident and relating to the issuance, payment, security, sale, and delivery of said bonds; authorizing the execution of a paying agent/registrar agreement; authorizing the execution of any necessary documents to effectuate the issuance of the bonds; complying with the requirements of the letter of representations on file with the depository trust company; and providing an effective date.

**9. CONSENT AGENDA**

- A. Approval of minutes from the Regular City Council Meeting held March 21, 2019.
  
- B. Approval of minutes from the Regular City Council Meeting held April 4, 2019.

**10. CITY ADMINISTRATOR REPORT**

Updates regarding the status of the Central Wimberley Wastewater Project and Wimberley Community Center signage *(City Administrator Shawn Cox)*

**11. PUBLIC HEARINGS AND POSSIBLE ACTION**

- A. Hold a public hearing and consider approval regarding case CUP-19-001, an application for a Conditional Use Permit to allow for the operation of a vacation rental on property zoned Single-Family Residential 2 (R-2) for property located at 13301 Ranch Road 12, Wimberley, Hays County, Texas; and providing for the following: delineation on zoning map; findings of fact; severability; effective date and proper notice and meeting. *(Mystic Hill, LLC, Applicant)*
  
- B. Hold a public hearing and consider approval regarding case ZA-19-002, an application to change the zoning from Single-Family Residential 2 (R-2) to Commercial-Moderate Impact (C-2) for property located at 151 Oldham Street, Wimberley, Hays County, Texas; and providing for the following: delineation on zoning map; findings of fact; severability; effective date and proper notice and meeting. *(Mike Oldmixon, Applicant)*
  
- C. Hold a public hearing and consider approval of the first reading of Ordinance No. 2019-08 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, effective date, and proper notice and meeting.

**12. DISCUSSION AND POSSIBLE ACTION**

- A. Discuss and consider possible action to utilize Specialized Public Finance, Inc. as financial advisors for the City of Wimberley. *(City Administrator Shawn Cox)*

- B. Discuss and consider possible action regarding an ordinance adding Article 4.12, Landscaping and Tree Preservation to Chapter 4, Building Regulations of the City of Wimberley Code of Ordinances. *(City Administrator Shawn Cox)*
- C. Discuss and consider possible action to declare the items in the storage unit for surplus. *(City Administrator Shawn Cox)*
- D. Discuss and consider possible action regarding a fence variance for Pedernales Electric Cooperative (PEC) for the PEC Wimberley Substation. *(City Administrator Shawn Cox)*
- E. Discuss and consider possible action to approve Hays County’s estimate in the amount of \$36,337 for the paving of and the replacement of a drainage culvert at Rocky Springs Road. *(City Administrator Shawn Cox)*
- F. Discuss and consider possible action to approve authorization of payment in the amount of \$13,380 to BEFCO for the Hazard Mitigation Grant Program (HMGP) surveys. *(City Administrator Shawn Cox)*
- G. Discuss an consider possible action to authorize an expenditure to the Texas General Land Office of an amount not to exceed \$2,350 for the application for and use of a State Miscellaneous Easement/Right-of-Way. *(Place Four Council Member Gary Barchfeld)*
- H. Discuss and consider possible action to support the completion of Friends of Blue Hole’s playscape shade canopy project. *(City Administrator Shawn Cox and Parks Director Rebecca Manning)*
- I. Discuss and consider possible action to approve Ordinance No. 2019-10, disannexing an area of approximately 90 acres contiguous to the City Limits, generally known as 801 Wayside Drive, and providing for the following: findings of fact, savings, severability, repealer, effective date, and proper notice and meeting. *(City Administrator Shawn Cox)*

**13. CITY COUNCIL REPORTS**

- A. Announcements
- B. Future agenda items

**14. ADJOURNMENT**

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

**CERTIFICATION**

I hereby certify the above Notice of Meeting was posted on the bulletin board at Wimberley City Hall, a place convenient and readily accessible to the general public at all times, and to the City's website, [www.cityofwimberley.com](http://www.cityofwimberley.com), in compliance with Chapter 551, Texas Government Code, on Monday, April 15, 2019, by 5:30 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

*Laura J. Calcote*

\_\_\_\_\_  
Laura J. Calcote, MPA, TRMC  
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.



ORDINANCE NO. 2019-\_\_

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF “CITY OF WIMBERLEY, TEXAS EXCHANGE REFUNDING BONDS, SERIES 2019”; PROVIDING FOR THE PAYMENT OF SAID BONDS BY THE LEVY OF AN AD VALOREM TAX UPON ALL TAXABLE PROPERTY WITHIN THE CITY AND FURTHER SECURING SAID BONDS BY A LIEN ON AND PLEDGE OF THE PLEDGED REVENUES OF THE SYSTEM; PROVIDING THE TERMS AND CONDITIONS OF SAID BONDS AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE, AND DELIVERY OF SAID BONDS; AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT; AUTHORIZING THE EXECUTION OF ANY NECESSARY DOCUMENTS TO EFFECTUATE THE ISSUANCE OF THE BONDS; COMPLYING WITH THE REQUIREMENTS OF THE LETTER OF REPRESENTATIONS ON FILE WITH THE DEPOSITORY TRUST COMPANY; AND PROVIDING AN EFFECTIVE DATE**

## TABLE OF CONTENTS

	Page
SECTION 1. AUTHORIZATION - DESIGNATION - PRINCIPAL AMOUNT - PURPOSE .....	2
SECTION 2. FULLY REGISTERED OBLIGATIONS - AUTHORIZED DENOMINATIONS - STATED MATURITIES - INTEREST RATES – BOND DATE .....	2
SECTION 3. PAYMENT OF BONDS - PAYING AGENT/REGISTRAR.....	3
SECTION 4. REDEMPTION .....	5
SECTION 5. EXECUTION - REGISTRATION.....	7
SECTION 6. REGISTRATION - TRANSFER - EXCHANGE OF BONDS - PREDECESSOR BONDS.....	7
SECTION 7. INITIAL BOND.....	8
SECTION 8. FORMS .....	8
SECTION 9. DEFINITIONS .....	17
SECTION 10. BOND FUND, INVESTMENTS.....	21
SECTION 11. TAX LEVY .....	22
SECTION 12. PLEDGE OF PLEDGED REVENUES .....	23
SECTION 13. SYSTEM FUND .....	23
SECTION 14. DEPOSITS TO BOND FUND; SURPLUS BOND PROCEEDS .....	24
SECTION 15. RESERVE FUND .....	25
SECTION 16. SECURITY OF FUNDS .....	26
SECTION 17. MAINTENANCE OF SYSTEM - INSURANCE .....	26
SECTION 18. RATES AND CHARGES.....	27
SECTION 19. RECORDS AND ACCOUNTS - ANNUAL AUDIT.....	27
SECTION 20. REMEDIES IN EVENT OF DEFAULT .....	28
SECTION 21. ISSUANCE OF ADDITIONAL PRIOR LIEN OBLIGATIONS, JUNIOR LIEN OBLIGATIONS, SUBORDINATE LIEN OBLIGATIONS, AND LIMITED PLEDGE OBLIGATIONS .....	28
SECTION 22. SPECIAL COVENANTS .....	29
SECTION 23. APPLICATION OF THE COVENANTS AND AGREEMENTS OF ANY ADDITIONAL PRIOR LIEN OBLIGATIONS, JUNIOR LIEN OBLIGATIONS, OR SUBORDINATE LIEN OBLIGATIONS .....	29
SECTION 24. NOTICES TO HOLDERS, WAIVER .....	30
SECTION 25. CANCELLATION .....	30

SECTION 26.	MUTILATED, DESTROYED, LOST, AND STOLEN BONDS .....	30
SECTION 27.	EXCHANGE OF BONDS .....	31
SECTION 28.	COVENANTS TO MAINTAIN TAX-EXEMPT STATUS .....	31
SECTION 29.	CONTROL AND CUSTODY OF BONDS.....	35
SECTION 30.	SATISFACTION OF OBLIGATION OF CITY .....	35
SECTION 31.	PRINTED OPINION.....	36
SECTION 32.	CUSIP NUMBERS .....	36
SECTION 33.	EFFECT OF HEADINGS.....	36
SECTION 34.	REQUEST FOR SCOPE MODIFICATION TO TEXAS WATER DEVELOPMENT BOARD .....	36
SECTION 35.	COMPLIANCE WITH PURCHASERS’ RULES AND REGULATIONS..	37
SECTION 36.	AUTHORIZATION OF ESCROW AGREEMENT.....	37
SECTION 37.	ORDINANCE A CONTRACT, AMENDMENTS – OUTSTANDING BONDS .....	37
SECTION 38.	BENEFITS OF ORDINANCE.....	37
SECTION 39.	INCONSISTENT PROVISIONS.....	37
SECTION 40.	GOVERNING LAW.....	38
SECTION 41.	SEVERABILITY .....	38
SECTION 42.	CONSTRUCTION OF TERMS.....	38
SECTION 43.	INCORPORATION OF PREAMBLE RECITALS.....	38
SECTION 44.	AUTHORIZATION OF PAYING AGENT/REGISTRAR AGREEMENT .	38
SECTION 45.	PUBLIC MEETING.....	38
SECTION 46.	UNAVAILABILITY OF AUTHORIZED PUBLICATION .....	38
SECTION 47.	NO RECOURSE AGAINST CITY OFFICIALS .....	38
SECTION 48.	CONTINUING DISCLOSURE UNDERTAKING .....	39
SECTION 49.	BOOK-ENTRY ONLY SYSTEM .....	43
SECTION 50.	FURTHER PROCEDURES.....	44
SECTION 51.	EFFECTIVE DATE .....	44

**ORDINANCE NO. 2019-\_\_**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF “CITY OF WIMBERLEY, TEXAS EXCHANGE REFUNDING BONDS, SERIES 2019”; PROVIDING FOR THE PAYMENT OF SAID BONDS BY THE LEVY OF AN AD VALOREM TAX UPON ALL TAXABLE PROPERTY WITHIN THE CITY AND FURTHER SECURING SAID BONDS BY A LIEN ON AND PLEDGE OF THE PLEDGED REVENUES OF THE SYSTEM; PROVIDING THE TERMS AND CONDITIONS OF SAID BONDS AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE, AND DELIVERY OF SAID BONDS; AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT; AUTHORIZING THE EXECUTION OF ANY NECESSARY DOCUMENTS TO EFFECTUATE THE ISSUANCE OF THE BONDS; COMPLYING WITH THE REQUIREMENTS OF THE LETTER OF REPRESENTATIONS ON FILE WITH THE DEPOSITORY TRUST COMPANY; AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, the City Council (the *City Council*) of the City of Wimberley, Texas (the *City*) has heretofore issued, sold, and delivered, and there are currently outstanding obligations in the aggregate original principal amount of \$5,255,000, being the obligations set forth on Schedule I hereto which is incorporated by reference for all purposes to this ordinance (the *Exchanged Obligations*); and

WHEREAS, the Exchanged Obligations were issued for the purposes of funding: (i) the construction of a collection system to provide wastewater service to the central Wimberley area; (ii) the upgrading and expansion of the existing wastewater treatment plant; (iii) a reasonably required reserve fund for the Exchanged Obligations; and (iv) professional services and costs of issuance related to the Exchanged Obligations (items (i) and (ii) are, together, referred to herein as the *Original Project Scope*); and

WHEREAS, the Exchanged Obligations, which were delivered to and are currently held by the Texas Water Development Board (the *Board*), are payable and secured by an irrevocable first lien on and pledge of the Pledged Revenues (defined herein) of the System (defined herein) and an annual transfer of funds into the System’s revenue stream as designated in the Intradepartmental Agreement Regarding the Purchase of Reclaimed Water; and

WHEREAS, the City Council has requested of the Board that the Original Project Scope be amended to remove item (ii) of the Original Project Scope pertaining to the upgrading and expansion of the existing wastewater treatment plant; and

WHEREAS, the Board, through Resolution No. \_\_\_\_\_, dated March 28, 2019, agreed to the requested amendment to the Original Project Scope, on the condition that the City Council exchange the Exchanged Obligations with the Bonds (hereinafter defined), which will be secured by the proceeds of an annual ad valorem tax levied, within the limits prescribed by law, on all

taxable property in the City and additionally by a lien on and a pledge of the Pledged Revenues of the System; and

WHEREAS, the City Council intends to issue combination general obligation and revenue refunding bonds in an aggregate principal amount of \$5,255,000 which will be utilized to provide for the exchange of the Exchanged Obligations; and

WHEREAS, pursuant to the provisions of Chapter 1207, as amended, Texas Government Code (the *Act*), the City Council is authorized to issue refunding bonds to be exchanged for, and on the surrender and cancellation of, obligations to be refunded (which may be an issue of obligations in whole or, upon the City's demonstration of adequate resources to pay the un-refunded balance of the obligations, in part); and

WHEREAS, on the Closing Date (defined herein), the City will deliver to the Board and the Board will accept from the City the Bonds in exchange for, and the Board will surrender to the City and the City will accept from the Board and cancel, the bonds evidencing the Exchanged Obligations (which acceptance and cancellation will be accomplished by the Paying Agent/Registrar at the City's written direction); and

WHEREAS, the City Council hereby finds and determines that the issuance of combination general obligation and revenue refunding bonds for the purpose of refunding and exchanging the Exchanged Obligations is in the best interests of the residents of the City, now, therefore,

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

SECTION 1. Authorization - Designation - Principal Amount - Purpose. The combination general obligation and revenue refunding bonds of the City shall be and are hereby authorized to be issued in the aggregate principal amount of FIVE MILLION TWO HUNDRED FIFTY FIVE THOUSAND AND NO/100 DOLLARS (\$5,255,000), to be designated and bear the title of "CITY OF WIMBERLEY, TEXAS EXCHANGE REFUNDING BONDS, SERIES 2019" (the *Bonds*), for the purpose of providing for the exchange of the Exchanged Obligations, pursuant to the authority conferred by and in conformity with the laws of the State of Texas, particularly the Act. The Bonds will have substantially the same terms as the Exchanged Obligations, except for the actual security for the payment of the Bonds.

SECTION 2. Fully Registered Obligations - Authorized Denominations - Stated Maturities - Interest Rates - Bond Date. The Bonds are issuable in fully registered form only; shall be dated April 1, 2019 (the *Bond Date*) and shall be issued in denominations of \$5,000 or any integral (within a Stated Maturity) thereof, shall be lettered "R-" and numbered consecutively from One (1) upward, and the Bonds shall become due and payable on August 1 in each of the years and in principal amounts (the *Stated Maturities*) and bear interest on the unpaid principal amounts as provided in Section 3, to the earlier of redemption or Stated Maturity, while Outstanding from the Closing Date (anticipated to occur on or about April \_\_, 2019), from the most recent Interest Payment Date (hereinafter defined) to which interest has been paid or duly provided for, to the earlier of redemption or Stated Maturity, at the per annum rates, while Outstanding, in accordance with the following schedule:

<u>Years of Stated Maturity</u>	<u>Principal Amounts (\$)</u>	<u>Interest Rates (%)</u>
2019	155,000	0.070
2020	160,000	0.230
2021	160,000	0.370
2022	160,000	0.490
2023	160,000	0.710
2024	160,000	0.850
2025	165,000	1.030
2026	165,000	1.210
2027	165,000	1.390
2028	170,000	1.520
2029	170,000	1.620
2030	175,000	1.710
2031	175,000	1.780
2032	180,000	1.850
2033	185,000	1.910
2034	185,000	1.950
2035	190,000	1.980
2036	195,000	2.000
2037	200,000	2.010
2038	200,000	2.030
2039	205,000	2.050
2040	210,000	2.070
2041	215,000	2.090
2042	220,000	2.110
2043	225,000	2.120
2044	230,000	2.130
2045	235,000	2.140
2046	240,000	2.150

SECTION 3. Payment of Bonds - Paying Agent/Registrar. The principal of, premium, if any, and interest on the Bonds, due and payable by reason of Stated Maturity, redemption, or otherwise, shall be payable, without exchange or collection charges to the registered owners of the Bonds (the *Holder* or *Holder*s), appearing on the Security Register (hereinafter defined) maintained by the Paying Agent/Registrar (hereinafter defined), in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts, and such payment of principal of and interest on the Bonds shall be without exchange or collection charges to the Holder (hereinafter defined) of the Bonds. Interest on each Bond issued and delivered to a Holder shall accrue from the latest Interest Payment Date that interest on such Bond (or its Predecessor Bond) has been paid that precedes the registration date appearing on such Bond in the “Registration Certificate of Paying Agent/Registrar” (Section 8D hereof), unless the registration date appearing thereon is an Interest Payment Date for which interest is being paid, in which case interest on such Bond shall accrue from the registration date appearing thereon and provided further that with respect to the initial payment of interest on a

Bond, such interest shall accrue from the date of initial delivery of the Bonds (or its Predecessor Bond) to the Purchasers (hereinafter defined).

The Bonds shall bear interest at the per annum rates shown above in Section 2, computed on the basis of a 360-day year of twelve 30-day months, and interest thereon shall be payable semiannually on February 1 and August 1 of each year (each an *Interest Payment Date*) commencing August 1, 2019, while the Bonds are Outstanding.

The selection and appointment of BOKF, NA, Dallas, Texas (the *Paying Agent/Registrar*), to serve as the initial Paying Agent/Registrar for the Bonds is hereby approved and confirmed, and the City agrees and covenants to cause to be kept and maintained at the corporate trust office of the Paying Agent/Registrar books and records (the *Security Register*) for the registration, payment and transfer of the Bonds, all as provided herein, in accordance with the terms and provisions of a Paying Agent/Registrar Agreement, attached, in substantially final form, as Exhibit A hereto, and such reasonable rules and regulations as the Paying Agent/Registrar and City may prescribe. The City covenants to maintain and provide a Paying Agent/Registrar at all times while the Bonds are Outstanding, and any successor Paying Agent/Registrar shall be (i) a national or state banking institution or (ii) an association or a corporation organized and doing business under the laws of the United States of America or of any state, authorized under such laws to exercise trust powers. Such Paying Agent/Registrar shall be subject to supervision or examination by federal or state authority and authorized by law to serve as a Paying Agent/Registrar.

The City reserves the right to appoint a successor Paying Agent/Registrar upon providing the previous Paying Agent/Registrar with a certified copy of a resolution or ordinance terminating such agency. Additionally, the City agrees to promptly cause a written notice of this substitution to be sent to each Holder of the Bonds by United States mail, first-class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of, premium, if any, and interest on the Bonds, due and payable by reason of Stated Maturity, redemption, or otherwise, shall be payable only to the registered owner of the Bonds appearing on the Security Register (the *Holder* or *Holder(s)*) maintained on behalf of the City by the Paying Agent/Registrar as hereinafter provided (i) on the Record Date (hereinafter defined) for purposes of payment of interest thereon, (ii) on the date of surrender of the Bonds for purposes of receiving payment of principal thereof upon redemption of the Bonds or at the Bonds' Stated Maturity, and (iii) on any other date for any other purpose. The City and the Paying Agent/Registrar, and any agent of either, shall treat the Holder as the owner of a Bond for purposes of receiving payment and all other purposes whatsoever, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary.

Principal of and premium, if any, on the Bonds shall be payable only upon presentation and surrender of the Bonds to the Paying Agent/Registrar at its corporate trust office. Interest on the Bonds shall be paid to the Holder whose name appears in the Security Register at the close of business on the fifteenth day of the month next preceding an Interest Payment Date for the Bonds (the *Record Date*) and shall be paid (i) by check sent on or prior to the appropriate date of payment by United States mail, first-class postage prepaid, by the Paying Agent/Registrar, to the address of the Holder appearing in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested in writing by the Holder at the Holder's risk and expense. While the

Bonds are held by the Purchasers (as defined in Section 27 hereof), payment of principal of, premium, if any, and interest on the Bonds shall be made by federal funds wire transfer, at no cost to the Purchasers, to an account at a financial institution located in the United States designated by the Purchasers.

If the date for the payment of the principal of, premium, if any, or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a day. The payment on such date shall have the same force and effect as if made on the original date any such payment on the Bonds was due.

In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a Special Record Date) will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the *Special Payment Date* - which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

#### SECTION 4. Redemption.

A. Optional Redemption. The Bonds having Stated Maturities on and after August 1, 2028, shall be subject to redemption prior to Stated Maturity, at the option of the City, in inverse order of Stated Maturity, in whole or in part, in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar), on August 1, 2027, or on any date thereafter at the redemption price of par plus accrued interest to the date of redemption.

B. Special Mandatory Redemption. In the event that the Purchasers at such time remains the sole holder of the Bonds and the final accounting delivered by the City to the Purchasers in the form and manner specified in, and in compliance with the provisions of, Section 35 of this Ordinance evidences that the total cost of the project to be financed with Bond proceeds is less than the amount of Bond proceeds available for paying such costs, then the City shall, as soon as practicable (but in no event later than six months after the Purchasers' acceptance of the aforementioned accounting), at the direction of the City Administrator, and without the requirement of the approval of the City Council of the City, redeem Bonds in the amount of such excess to the nearest multiple of the authorized denomination for the Bonds. Bonds redeemed pursuant to this provision shall be redeemable on any date, in inverse order of Stated Maturity, as a whole or in part, in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity, selected at random and by lot by the Paying Agent/Registrar), at the redemption price of par plus accrued interest to the date of redemption.

C. Exercise of Redemption Option. At least forty-five (45) days prior to a date set for the redemption of Bonds (unless a shorter notification period shall be satisfactory to the Paying

Agent/Registrar), the City shall notify the Paying Agent/Registrar of its decision to exercise the right to redeem Bonds, the principal amount of each Stated Maturity to be redeemed, and the date set for the redemption thereof. The decision of the City to exercise the right to redeem Bonds shall be entered in the minutes of the governing body of the City.

D. Selection of Bonds for Redemption. If less than all Outstanding Bonds of the same Stated Maturity are to be redeemed on a redemption date, the Paying Agent/Registrar shall select at random and by lot the Bonds to be redeemed, provided that if less than the entire principal amount of a Bond is to be redeemed, the Paying Agent/Registrar shall treat such Bond then subject to redemption as representing the number of Bonds Outstanding which is obtained by dividing the principal amount of such Bond by \$5,000.

E. Notice of Redemption. Not less than thirty (30) days prior to a redemption date for the Bonds, a notice of redemption shall be sent by United States mail, first-class postage prepaid, in the name of the City and at the City's expense, by the Paying Agent/Registrar to each Holder of a Bond to be redeemed, in whole or in part, at the address of the Holder appearing on the Security Register at the close of business on the business day next preceding the date of mailing such notice, and any notice of redemption so mailed shall be conclusively presumed to have been duly given irrespective of whether received by the Holder. This notice may also be published once in a financial publication, journal, or reporter of general circulation among securities dealers in the City of New York, New York (including, but not limited to, The Bond Buyer and The Wall Street Journal), or in the State of Texas (including, but not limited to, The Texas Bond Reporter).

All notices of redemption shall (i) specify the date of redemption for the Bonds, (ii) identify the Bonds to be redeemed and, in the case of a portion of the principal amount to be redeemed, the principal amount thereof to be redeemed, (iii) state the redemption price, (iv) state that the Bonds, or the portion of the principal amount thereof to be redeemed, shall become due and payable on the redemption date specified, and the interest thereon, or on the portion of the principal amount thereof to be redeemed, shall cease to accrue from and after the redemption date, and (v) specify that payment of the redemption price for the Bonds, or the principal amount thereof to be redeemed, shall be made at the corporate trust office of the Paying Agent/Registrar only upon presentation and surrender thereof by the Holder.

If a Bond is subject by its terms to redemption and has been called for redemption and notice of redemption thereof has been duly given or waived as herein provided, such Bond (or the principal amount thereof to be redeemed) so called for redemption shall become due and payable, and if money sufficient for the payment of such Bonds (or of the principal amount thereof to be redeemed) at the then applicable redemption price is held for the purpose of such payment by the Paying Agent/Registrar, then on the redemption date designated in such notice, interest on the Bonds (or the principal amount thereof to be redeemed) called for redemption shall cease to accrue and such Bonds shall not be deemed to be Outstanding in accordance with the provisions of this Ordinance.

F. Transfer/Exchange of Bonds. Neither the City nor the Paying Agent/Registrar shall be required (1) to transfer or exchange any Bond during a period beginning forty-five (45) days prior to the date fixed for redemption of the Bonds or (2) to transfer or exchange any Bond selected for redemption, provided, however, such limitation of transfer shall not be applicable to an

exchange by the Holder of the unredeemed balance of a Bond which is subject to redemption in part.

SECTION 5. Execution - Registration. The Bonds shall be executed on behalf of the City by its Mayor or Mayor Pro Tem under its seal reproduced or impressed thereon and attested by its City Secretary. The signature of either of said officers on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who were, at the time of the Bond Date, the proper officers of the City shall bind the City, notwithstanding that such individuals or either of them shall cease to hold such offices prior to the delivery of the Bonds to the Purchasers, all as authorized and provided in Chapter 1201, as amended, Texas Government Code.

No Bond shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Section 8C, executed by the Comptroller of Public Accounts of the State of Texas or his duly authorized agent by manual signature, or a certificate of registration substantially in the form provided in Section 8D, executed by the Paying Agent/Registrar by manual signature, and either such certificate upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly certified or registered and delivered.

SECTION 6. Registration - Transfer - Exchange of Bonds - Predecessor Bonds. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of every owner of the Bonds, or if appropriate, the nominee thereof. Any Bond may, in accordance with its terms and the terms hereof, be transferred or exchanged for Bonds of other authorized denominations upon the Security Register by the Holder, in person or by his duly authorized agent, upon surrender of such Bond to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender for transfer of any Bond at the corporate trust office of the Paying Agent/Registrar, the City shall execute and the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Bonds of authorized denomination and having the same Stated Maturity and of a like interest rate and aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Holder, Bonds may be exchanged for other Bonds of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Bonds surrendered for exchange upon surrender of the Bonds to be exchanged at the corporate trust office of the Paying Agent/Registrar. Whenever any Bonds are so surrendered for exchange, the City shall execute, and the Paying Agent/Registrar shall register and deliver, the Bonds to the Holder requesting the exchange.

All Bonds issued upon any transfer or exchange of Bonds shall be delivered at the corporate trust office of the Paying Agent/Registrar, or be sent by registered mail to the Holder at his request, risk, and expense, and upon the delivery thereof, the same shall be the valid and binding obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Bonds surrendered upon such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds canceled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be Predecessor Bonds, evidencing all or a portion, as the case may be, of the same debt evidenced by the new Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term Predecessor Bonds shall include any Bond registered and delivered pursuant to Section 26 in lieu of a mutilated, lost, destroyed, or stolen Bond which shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

SECTION 7. Initial Bond. The Bonds herein authorized shall be issued initially either (i) as a single fully registered Bond in the total principal amount of \$5,255,000 with principal installments to become due and payable as provided in Section 2 and numbered T-1, or (ii) as one (1) fully registered Bond for each year of a Stated Maturity in the applicable principal amount and denomination purchased thereby and to be numbered consecutively from T-1 and upward (the *Initial Bonds*) and, in either case, the Initial Bonds shall be registered in the name of the Purchasers or the designee thereof. The Initial Bond shall be the Bond submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the Purchasers. Any time after the delivery of the Initial Bond to the Purchasers, the Paying Agent/Registrar, upon written instructions from the Purchasers or their designee, shall cancel the Initial Bond delivered hereunder and exchange therefor definitive Bonds of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates, and shall be lettered "R" and numbered consecutively from one (1) upward for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the Purchasers, or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

#### SECTION 8. Forms.

A. Forms Generally. The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Bonds shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and may have such letters, numbers, or other marks of identification (including insurance legends in the event the Bonds, or any Stated Maturities thereof, are insured, and any reproduction of an opinion of Bond Counsel) and identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an opinion of Bond Counsel (hereinafter referenced)) thereon as may, consistent herewith, be established by the City or determined by the officers executing the Bonds as evidenced by their execution thereof. Any portion of the text of any Bond may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The definitive Bonds shall be typewritten, printed, lithographed, or engraved, produced by any combination of these methods, or produced in any other similar manner, all as determined by the officers executing the Bonds as evidenced by their execution thereof, but the Initial Bond submitted to the Attorney General of the State of Texas may be typewritten or photocopied or otherwise reproduced.

*[The remainder of this page intentionally left blank.]*

B. Form of Definitive Bond.

REGISTERED  
NO. \_\_\_\_\_

REGISTERED  
PRINCIPAL AMOUNT  
\$ \_\_\_\_\_

United States of America  
State of Texas  
County of Hays  
CITY OF WIMBERLEY, TEXAS  
EXCHANGE REFUNDING BONDS, SERIES 2019

Bond Date: April 1, 2019      Interest Rate:      Stated Maturity:      CUSIP No.

REGISTERED OWNER: \_\_\_\_\_

PRINCIPAL AMOUNT: \_\_\_\_\_

The City of Wimberley, Texas (the *City*), a body corporate and municipal corporation in the County of Hays, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the order of the Registered Owner specified above, or the registered assigns thereof, on the Stated Maturity date specified above, the Principal Amount specified above (or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid Principal Amount hereof from the Closing Date (anticipated to occur on or about April \_\_, 2019), or from the most recent Interest Payment Date (hereinafter defined) to which interest has been paid or duly provided for until such Principal Amount has become due and payment thereof has been made or duly provided for, to the earlier of redemption or Stated Maturity while Outstanding, at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 1 and August 1 of each year (each, an *Interest Payment Date*) commencing August 1, 2019.

Principal and premium, if any, of this Bond shall be payable to the Registered Owner hereof (the *Holder*), upon presentation and surrender, at the corporate trust office of the Paying Agent/Registrar executing the registration certificate appearing hereon or a successor thereof. Interest shall be payable to the Holder of this Bond (or one or more Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the Security Register maintained by the Paying Agent/Registrar at the close of business on the Record Date, which is the fifteenth day of the month next preceding each Interest Payment Date. All payments of principal of and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest shall be paid by the Paying Agent/Registrar by check sent on or prior to the appropriate date of payment by United States mail, first-class postage prepaid, to the Holder hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by the Holder hereof at the Holder's risk and expense. While the Bonds are held by the Purchasers payment of principal of, premium, if any, and interest on the Bonds shall be made by federal funds

wire transfer, at no cost to the Purchasers, to an account at a financial institution located in the United States designated by the Purchasers.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$5,255,000 (the *Bonds*) pursuant to an Ordinance adopted by the governing body of the City (the *Ordinance*), for the purpose of providing for the exchange of the Exchanged Obligations, under and in strict conformity with the laws of the State of Texas, particularly Chapter 1207, as amended, Texas Government Code.

As set forth in the Ordinance, the Bonds stated to mature on and after August 1, 2028 may be redeemed prior to their Stated Maturities, at the option of the City, in inverse order of Stated Maturity, in whole or in part, in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar), on August 1, 2027, or on any date thereafter at the redemption price of par, together with accrued interest to the date of redemption and upon 30 days prior written notice being sent by United States Mail, first class postage prepaid, to the registered owners of the Bonds to be redeemed, and subject to the terms and provisions relating thereto contained in the Ordinance. If this Bond (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date this Bond (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor, provided moneys for the payment of the redemption price and the interest on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar.

In addition to the foregoing right to optional redemption, in the event that the Purchasers at such time remains the sole holder of the Bonds and the final accounting delivered by the City to the Purchasers in the form and manner specified in the Ordinance (and in compliance with the provisions of Section 35 of the Ordinance) evidences that the total cost of the project to be financed with Bond proceeds is less than the amount of Bond proceeds available for paying such costs, then the City shall, as soon as practicable (but in no event later than six months after the Purchasers' acceptance of the aforementioned accounting) redeem Bonds in the amount of such excess to the nearest multiple of the authorized denomination for the Bonds. Bonds redeemed pursuant to this provision shall be redeemable on any date, in inverse order of Stated Maturity, as a whole or in part, in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity, selected at random and by lot by the Paying Agent/Registrar), at the redemption price of par plus accrued interest to the date of redemption.

In the event that the Purchasers at such time remains the sole holder of the Bonds and the final accounting delivered by the City to the Purchasers in the form and manner specified in the Ordinance (and in compliance with the provisions of Section 35 of the Ordinance) evidences that the total cost of the project to be financed with Bond proceeds is less than the amount of Bond proceeds available for paying such costs, then the City shall, as soon as practicable (but in no event later than six months after the Purchasers' acceptance of the aforementioned accounting), at the direction of the City Administrator without the requirement of the approval of the City Council of the City, redeem Bonds in the amount of such excess to the nearest multiple of the authorized denomination for the Bonds. Bonds redeemed pursuant to this provision shall be redeemable on any date, in inverse order of Stated Maturity, as a whole or in part, in principal amounts of \$5,000

or any integral multiple thereof (and if within a Stated Maturity, selected at random and by lot by the Paying Agent/Registrar), at the redemption price of par plus accrued interest to the date of redemption.

If this Bond (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption has been duly given, then upon such redemption date this Bond (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and, if the money for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption is held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable hereon from and after the redemption date on the principal amount hereof to be redeemed. If this Bond is called for redemption, in whole or in part, the City or the Paying Agent/Registrar shall not be required to issue, transfer, or exchange this Bond within forty-five (45) days of the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance hereof in the event of its redemption in part.

The Bonds of this series are payable from the proceeds of an ad valorem tax levied upon all taxable property within the City, within the limitations prescribed by law, and are further payable from and secured by a first lien on and pledge of the Pledged Revenues (identified and defined in the Ordinance), which includes a first lien on and pledge of Net Revenues derived by the City from its ownership and operation of the City's wastewater and sewer utility system (the *System*), such lien on and pledge of Net Revenues being on parity with the lien on and pledge of such Net Revenues securing the payment of any Additional Prior Lien Obligations and superior to the lien on and pledge of such Net Revenues securing payment of any Junior Lien Obligations, or Limited Pledge Obligations hereafter issued by the City. In the Ordinance, the City reserves and retains the right to issue Additional Prior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations, and Limited Pledge Obligations (all as identified and defined in the Ordinance), while the Bonds are Outstanding, without limitation as to principal amount but subject to any terms, conditions or restrictions as may be applicable thereto under law or otherwise.

Reference is hereby made to the Ordinance, a copy of which is on file in the corporate trust office of the Paying Agent/Registrar, and to all of the provisions of which the Holder by his acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied and the revenues pledged for the payment of the Bonds; the terms and conditions under which the City may issue Additional Prior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations, and Limited Pledge Obligations; the terms and conditions relating to the transfer or exchange of the Bonds; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holder; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which this Bond may be redeemed or discharged at or prior to the Stated Maturity thereof, and deemed to be no longer Outstanding thereunder; and for the other terms and provisions specified in the Ordinance. Capitalized terms used herein have the same meanings assigned in the Ordinance.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register upon presentation and surrender at the corporate trust office of the Paying Agent/Registrar, duly endorsed by, or accompanied by a written instrument of transfer in form

satisfactory to the Paying Agent/Registrar duly executed by the Holder hereof, or his duly authorized agent, and thereupon one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the Holder hereof whose name appears on the Security Register (i) on the Record Date as the owner hereof for purposes of receiving payment of interest hereon, (ii) on the date of surrender of this Bond as the owner hereof for purposes of receiving payment of principal hereof at its Stated Maturity or its redemption, in whole or in part, and (iii) on any other date as the owner hereof for all other purposes, and neither the City nor the Paying Agent/Registrar, or any such agent of either, shall be affected by notice to the contrary. In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a Special Record Date) will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the *Special Payment Date* - which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, covenanted, and represented that all acts, conditions, and things required to be performed, exist, and be done precedent to the issuance of this Bond in order to render the same a legal, valid, and binding obligation of the City have been performed, exist, and have been done, in regular and due time, form, and manner, as required by the laws of the State of Texas and the Ordinance, and that issuance of the Bonds does not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of, premium if any, and interest on the Bonds by the levy of a tax and collection of Pledged Revenues as aforestated. In case any provision in this Bond or any application thereof shall be deemed invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City has caused this Bond to be duly executed under its official seal.

CITY OF WIMBERLEY, TEXAS

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Secretary

(CITY SEAL)

C. \*Form of Registration Certificate of Comptroller of Public Accounts to Appear on Initial Bond Only.

REGISTRATION CERTIFICATE OF  
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER OF §  
PUBLIC ACCOUNTS §  
THE STATE OF TEXAS § REGISTER NO. \_\_\_\_\_  
§

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this \_\_\_\_\_

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

(SEAL)

\*NOTE TO PRINTER: Not to appear on printed Bonds.

D. Form of Certificate of Paying Agent/Registrar to Appear on Definitive Bonds Only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been duly issued under the provisions of the within-mentioned Ordinance; the Bond or Bonds of the above-entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

Registered this date: BOKF, NA, Dallas, Texas, as Paying Agent/Registrar

\_\_\_\_\_ By: \_\_\_\_\_  
Authorized Signature

\*NOTE TO PRINTER: Print on Definitive Bonds.

*[The remainder of this page intentionally left blank.]*

E. Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee): \_\_\_\_\_

(Social Security or other identifying number): \_\_\_\_\_

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED: \_\_\_\_\_

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular.

Signature guaranteed:

\_\_\_\_\_

F. The Initial Bond shall be in the form set forth in paragraph B of this Section, except that the form of a single fully registered Initial Bond shall be modified as follows:

- (i) immediately under the name of the Bond(s) the headings "Interest Rate" and "Stated Maturity" shall both be completed "As Shown Below";
- (ii) the first two paragraphs shall read as follows:

Registered Owner: \_\_\_\_\_

Principal Amount: \_\_\_\_\_

The City of Wimberley, Texas (the *City*), a body corporate and municipal corporation in the County of Hays, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the order of the Registered Owner named above, or the registered assigns thereof, the Principal Amount specified above stated to mature on the first day of August each of the years and in principal amounts and bearing interest at per annum rates in accordance with the following schedule:

Years of  
Stated Maturity

Principal  
Amounts (\$)

Interest  
Rates (%)

(Information to be inserted  
from schedule in Section 2 hereof)

(or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid Principal Amounts hereof from the Closing Date (anticipated to occur on or about April \_\_, 2019), or from the most recent Interest Payment Date (defined below) to which interest has been paid or duly provided for, to the earlier of redemption or Stated Maturity, at the per annum rates of interest specified above, computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 1 and August 1 of each year (each, an *Interest Payment Date*), commencing August 1, 2019.

Principal of this Bond shall be payable to the Registered Owner hereof (the *Holder*), upon its presentation and surrender to Stated Maturity or prior redemption, while Outstanding, at the corporate trust office of BOKF, NA, Dallas, Texas (the *Paying Agent/Registrar*). Interest shall be payable to the Holder of this Bond whose name appears on the Security Register maintained by the Paying Agent/Registrar at the close of business on the Record Date, which is the fifteenth day of the month next preceding each Interest Payment Date. All payments of principal of and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest shall be paid by the Paying Agent/Registrar by check sent on or prior to the appropriate date of payment by United States mail, first-class postage prepaid, to the Holder hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder hereof.

G. Insurance Legend. If bond insurance is obtained by the City or the Purchasers for the Bonds, the Definitive Bonds and the Initial Bond shall bear an appropriate legend as provided by the insurer to appear under the following header:

[BOND INSURANCE]

SECTION 9. Definitions. For all purposes of this Ordinance (as defined below), except as otherwise expressly provided or unless the context otherwise requires: (i) the terms defined in this Section have the meanings assigned to them in this Section, and certain terms used in Sections 28 and 48 of this Ordinance have the meanings assigned to them in Sections 28 and 48 of this Ordinance, and all such terms, include the plural as well as the singular; (ii) all references in this Ordinance to designated “Sections” and other subdivisions are to the designated Sections and other subdivisions of this Ordinance as originally adopted; and (iii) the words “herein”, “hereof”, and “hereunder” and other words of similar import refer to this Ordinance as a whole and not to any particular Section or other subdivision.

A. The term *Additional Prior Lien Obligations* shall mean (i) the Bonds and any bonds, notes, warrants, certificates of obligation, or other evidences of indebtedness which the City reserves the right to issue or enter into, as the case may be, in the future under the terms and conditions provided by the City Council and which are equally and ratably secured solely by a first

and prior lien on and pledge of the Pledged Revenues of the System and (ii) any obligations hereafter issued to refund any of the foregoing if issued in a manner so as to be payable from and secured by a first and prior lien on and pledge of the Pledged Revenues as determined by the City Council in accordance with applicable law

B. The term *Authorized Officials* shall mean the Mayor, the Mayor Pro Tem, the City Administrator, and/or the City Secretary.

C. The term *Bonds* shall mean the \$5,255,000 “CITY OF WIMBERLEY, TEXAS EXCHANGE REFUNDING BONDS, SERIES 2019” authorized by this Ordinance.

D. The term *Bond Fund* shall mean the special Fund created and established by the provisions of Section 10 of this Ordinance.

E. The term *City* shall mean the City of Wimberley, located in Hays County, Texas and, where appropriate, the City Council of the City.

F. The term *Closing Date* shall mean the date of physical delivery of the Initial Bonds in exchange for the Exchanged Obligations.

G. The term *Collection Date* shall mean, when reference is being made to the levy and collection of annual ad valorem taxes, the date the annual ad valorem taxes levied each year by the City become delinquent.

H. The term *Debt Service Requirements* shall mean, as of any particular date of computation, with respect to any obligations and with respect to any period, the aggregate of the amounts to be paid or set aside by the City as of such date or in such period for the payment of the principal of, premium, if any, and interest (to the extent not capitalized) on such obligations; assuming, in the case of obligations without a fixed numerical rate, that such obligations bear interest at the maximum rate permitted by the terms thereof and further assuming in the case of obligations required to be redeemed or prepaid as to principal prior to Stated Maturity, the principal amounts thereof will be redeemed prior to Stated Maturity in accordance with the mandatory redemption provisions applicable thereto.

I. The term *Depository* shall mean an official depository bank of the City.

J. The term *Fiscal Year* shall mean the annual financial accounting period for the System now ending on September 30th of each year; provided, however, the City Council may change such annual financial accounting period to end on another date if such change is found and determined to be necessary for accounting purposes or is required by applicable law.

K. The term *Government Securities*, as used herein, shall mean (i) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by, the United States of America; (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent;

(iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent, or (iv) any additional securities and obligations hereafter authorized by the laws of the State of Texas as eligible for use to accomplish the discharge of obligations such as the Obligations.

L. The term *Gross Revenues* shall mean all income, receipts, and revenues of every nature derived or received from the operation or ownership of the System, excluding refundable meter deposits, restricted gifts, and grants in aid of construction, but including earnings and income derived from the investment or deposit of money in any special fund or account (except the Bond Fund) created and established for the payment or security of the Bonds.

M. The term *Holder* or *Holder*s shall mean the registered owner, whose name appears in the Security Register, for any Bond.

N. The term *Interest Payment Date* shall mean the date semiannual interest is payable on the Bonds, being February 1 and August 1 of each year, commencing August 1, 2019, while any of the Bonds remain Outstanding.

O. The term *Junior Lien Obligations* shall mean (i) any bonds, notes, warrants, certificates of obligation or any similar obligations hereafter issued by the City that are payable wholly or in part from and equally and ratably secured by a lien on and pledge of the Net Revenues of the System, such pledge being junior and inferior to the lien on and pledge of the Net Revenues of the System that are pledged to the Bonds and any Additional Prior Lien Obligations hereafter issued by the City, but prior and superior to the lien on and pledge of the Net Revenues of the System that may be pledged to the payment of any Subordinate Lien Obligations or the Limited Pledge Obligations, all as further provided in Section 21 of this Ordinance and (ii) obligations hereafter issued to refund any of the foregoing that are payable from and equally and ratably secured by a junior and inferior lien on and pledge of the Net Revenues as determined by the City Council in accordance with any applicable law.

P. The term *Limited Pledge Obligations* shall mean (i) any bonds, notes, warrants, certificates of obligation, or other evidences of indebtedness hereafter issued by the City payable wholly or in part from a pledge of and lien on Net Revenues of the System which pledge of revenues is limited pursuant to Section 1502.052, as amended, Texas Government Code, all as further provided in Section 21 of this Ordinance, and (ii) any obligations hereafter issued to refund any of the foregoing as determined by the City Council in accordance with any applicable law.

Q. The term *Maintenance and Operating Expenses* shall mean all current expenses of operating and maintaining the System as authorized by the provisions of Chapter 1502, as amended, Texas Government Code, including, but not limited to, all salaries, labor, materials, repairs and extensions necessary to render efficient service; provided, however, that only such repairs and extensions, as in the judgment of the City Council, reasonably and fairly exercised, are necessary to maintain the operations and render adequate service to the City and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would

otherwise impair obligations payable from Net Revenues shall be deducted in determining Net Revenues. Depreciation, amortization, or other expenditures which, under standard accounting practice, should be charged to capital expenditures shall not constitute or be regarded as Maintenance and Operating Expenses of the System. Payments required to be made by the City for water supply or water facilities, sewer services or sewer facilities, or fuel supply which payments under law constitute operation and maintenance expenses of any part of the System, shall constitute and be regarded as Maintenance and Operating Expenses of the System under this Ordinance.

R. The term *Net Revenues* for any period shall mean the Gross Revenues of the System less the Maintenance and Operating Expenses of the System.

S. The term *Ordinance* shall mean this ordinance as finally passed and adopted by the City Council of the City.

T. The term *Outstanding* when used in this Ordinance with respect to Bonds shall mean, as of the date of determination, all Bonds issued and delivered under this Ordinance, except:

(1) those Bonds canceled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Bonds for which payment has been duly provided by the City in accordance with the provisions of Section 30 of this Ordinance; and

(3) those Bonds that have been mutilated, destroyed, lost, or stolen and replacement Bonds have been registered and delivered in lieu thereof as provided in Section 26 of this Ordinance.

U. The term *Pledged Revenues* shall mean, while the Bonds remain Outstanding, (1) the Net Revenues plus (2) any additional revenues, income, receipts, or other resources, including, without limitation, any grants, donations, or income received or to be received from the United States Government, or any other public or private source, whether pursuant to an agreement or otherwise, which hereafter are pledged by the City to the payment of the Bonds or any Additional Prior Lien Obligations hereafter issued by the City, and excluding those revenues excluded from Gross Revenues. The Pledged Revenues shall be deposited, allocated, and expended in accordance with Section 10 of this Ordinance.

V. The term *Purchasers* shall mean the initial purchaser or purchasers of the Bonds named in Section 27 of this Ordinance.

W. The term *Stated Maturity* shall mean the annual principal payments of the Bonds payable on August 1 of each year the Bonds are Outstanding as set forth in Section 2 of this Ordinance.

X. The term *Subordinate Lien Obligations* shall mean (i) any bonds, notes, warrants, certificates of obligation, or any similar obligations hereafter issued by the City that are payable, in whole or in part, from and equally and ratably secured by a lien on and pledge of the Net Revenues of the System, such pledge being subordinate and inferior to the lien on and pledge of

the Net Revenues of the System that are or may be pledged to the payment of the Bonds or any Additional Prior Lien Obligations or Junior Lien Obligations hereafter issued by the City, but prior and superior to the lien on and pledge of the limited amount of the Net Revenues securing, in part, any Limited Pledge Obligations hereafter issued by the City, all as further provided in Section 21 of this Ordinance and (ii) obligations hereafter issued to refund any of the foregoing that are payable from and equally and ratably secured by a subordinate and inferior lien on and pledge of the Net Revenues as determined by the City Council in accordance with any applicable law.

Y. The term *System* shall mean the City's wastewater and sewer utility system and all land, buildings, structures, equipment, and facilities pertaining thereto, together with all future improvements, extensions, enlargements, and additions thereto, and replacements thereof, and all other wastewater and sewer utility facilities of the City acquired or constructed with funds from any source, including the issuance of the Bonds, and any Additional Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City; provided, however, that notwithstanding the foregoing, and to the extent now or hereafter authorized or permitted by law, the term System shall not include facilities of any kind declared by the City Council not to be part of the System and which are acquired and constructed by or on behalf of the City with the proceeds from the issuance of *Special Facilities Bonds*, which are hereby defined to be special revenue obligations of the City which are not payable from a first lien on and pledge of any Net Revenues but which are payable from and secured by other liens on and pledges of any revenues, sources, lease or other payments, not pledged to the payment of the Bonds, or any Additional Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City including, but not limited to, special contract revenues or payments received from any other legal entity in connection with such facilities.

SECTION 10. Bond Fund, Investments. For the purpose of paying the interest on and to provide a sinking fund for the payment, redemption, and retirement of the Bonds, there shall be and is hereby created a special fund to be designated "CITY OF WIMBERLEY, TEXAS EXCHANGE REFUNDING BONDS, SERIES 2019, INTEREST AND SINKING FUND" (the *Bond Fund*), which fund shall be kept and maintained at the Depository, and money deposited in such fund shall be used for no other purpose and shall be maintained as provided in Section 29. Authorized Officials of the City are hereby authorized and directed to make withdrawals from said fund sufficient to pay the purchase price or the amount of principal of and interest on the Bonds as the same become due and payable and shall cause to be transferred to the Paying Agent/Registrar from money on deposit in the Bond Fund an amount sufficient to pay the amount of principal and/or interest stated to mature on the Bonds, such transfer of funds to the Paying Agent/Registrar to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar on or before the last business day next preceding each interest and principal payment date for the Bonds.

Pending the transfer of funds to the Paying Agent/Registrar, money deposited in any fund created and established by this Ordinance may, at the option of the City, be placed in time deposits, certificates of deposit, guaranteed investment contracts, or similar contractual agreements, as permitted by the provisions of the Public Funds Investment Act, as amended, Chapter 2256, Texas Government Code, secured (to the extent not insured by the Federal Deposit Insurance Corporation) by obligations of the type hereinafter described, or be invested, as authorized by any law, including investments held in book-entry form, in securities, including, but not limited to,

direct obligations of the United States of America, obligations guaranteed or insured by the United States of America, which, in the opinion of the Attorney General of the United States, are backed by its full faith and credit or represent its general obligations, or invested in indirect obligations of the United States of America, including, but not limited to, evidences of indebtedness issued, insured or guaranteed by such governmental agencies as the Federal Land Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, Federal Home Loan Banks, Government National Mortgage Association, Farmers Home Administration, Federal Home Loan Mortgage Association, or Federal Housing Association; provided that all such deposits and investments shall be made in such a manner that the money required to be expended from such fund will be available at the proper time or times. All interest and income derived from deposits and investments in any fund established pursuant to the provisions of this Ordinance shall be credited to, and any losses debited to, such fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Bonds.

SECTION 11. Tax Levy. To provide for the payment of the Debt Service Requirements on the Bonds being (i) the interest on the Bonds and (ii) a sinking fund for their redemption at Stated Maturity or a sinking fund of 2% (whichever amount shall be the greater), there shall be and there is hereby levied for the current year and each succeeding year thereafter while the Bonds or any interest thereon shall remain Outstanding, a sufficient tax, within the limitations prescribed by law, on each one hundred dollars valuation of taxable property in the City, adequate to pay such Debt Service Requirements, full allowance being made for delinquencies and costs of collection; said tax shall be assessed and collected each year and applied to the payment of the Debt Service Requirements, and the same shall not be diverted to any other purpose. The taxes so levied and collected shall be paid into the Bond Fund and are thereafter pledged to the payment of the Bonds. The City Council hereby declares its purpose and intent to provide and levy a tax legally and fully sufficient to pay such Debt Service Requirements, it having been determined that the existing and available taxing authority of the City for such purpose is adequate to permit a legally sufficient tax in consideration of all other outstanding indebtedness and other obligations of the City.

The amount of taxes to be provided annually for the payment of the principal of and interest on the Bonds shall be determined and accomplished in the following manner:

A. Prior to the date the City Council establishes the annual tax rate and passes an ordinance levying ad valorem taxes each year, the City Council shall determine:

(1) the amount of Debt Service Requirements to become due and payable on the Bonds between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding calendar year;

(2) the amount on deposit in the Bond Fund after (a) deducting therefrom the total amount of Debt Service Requirements to become due on Bonds prior to the Collection Date for the ad valorem taxes to be levied and (b) adding thereto the amount of the Pledged Revenues to be appropriated and allocated during such year to pay such Debt Service Requirements, if any, prior to the Collection Date for the ad valorem taxes to be levied; and

(3) the amount of Pledged Revenues to be appropriated and to be set aside for the payment of the Debt Service Requirements on the Bonds between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding Fiscal Year.

B. The amount of taxes to be levied annually each year to pay the Debt Service Requirements on the Bonds shall be the amount established in paragraph (1) above less the sum total of the amounts established in paragraphs (2) and (3), after taking into consideration delinquencies and costs of collecting such annual taxes.

SECTION 12. Pledge of Pledged Revenues. (a) The City hereby covenants and agrees that, on parity with any lien on and pledge of the Net Revenues of the System to the payment and security of any Additional Prior Lien Obligations hereafter issued by the City and superior to any lien on and pledge of the Net Revenues of the System to the payment and security of (i) any Junior Lien Obligations or Subordinate Lien Obligations hereafter issued by the City or (ii) the lien on and pledge of a limited amount of the Net Revenues to the payment and security of any Limited Pledge Obligations hereafter issued by the City, the Pledged Revenues are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds, and the pledge of Pledged Revenues herein made for the payment of the Bonds shall constitute a lien on the Pledged Revenues in accordance with the terms and provisions hereof and be valid and binding without any physical delivery thereof or further act by the City.

(b) Chapter 1208, as amended, Texas Government Code, applies to the issuance of the Bonds and the pledge of Pledged Revenues granted by the City under subsection (a) of this Section, and such pledge is therefore valid, effective, and perfected. If Texas law is amended at any time while the Bonds are outstanding and unpaid such that the pledge of the Net Revenues granted by the City is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in this pledge, the City Council agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, as amended, Texas Business & Commerce Code and enable a filing to perfect the security interest in this pledge to occur.

SECTION 13. System Fund. The City hereby covenants and agrees that all Gross Revenues derived from the operation of the System shall be kept separate and apart from all other funds, accounts and money of the City and shall be deposited as collected into the "CITY OF WIMBERLEY, TEXAS WASTEWATER AND SEWER SYSTEM FUND" (the *System Fund*). All money deposited in the System Fund shall be pledged and appropriated to the extent required for the following purposes and in the order of priority shown:

- First: to the payment of the reasonable and proper Maintenance and Operating Expenses of the System required by statute or ordinances authorizing the issuance of any indebtedness of the City to be a first charge on and claim against the Gross Revenues of the System;
- Second: To the payment of the amounts that must be deposited in the special funds and accounts created and established for the payment, security, and benefit of the

Bonds, and any Additional Prior Lien Obligations hereafter issued by the City in accordance with the terms and provisions of any ordinances authorizing their issuance;

- Third: To the payment of the amounts that must be deposited in the special funds and accounts created and established for the payment, security, and benefit of any Junior Lien Obligations hereafter issued by the City in accordance with the terms and provisions of any ordinances authorizing their issuance;
- Fourth: To the payment of the amounts that must be deposited in the special funds and accounts created and established for the payment, security, and benefit of any Subordinate Lien Obligations hereafter issued by the City in accordance with the terms and provisions of any ordinances authorizing their issuance; and
- Fifth: To the payment of the amounts that may be deposited in the special funds and accounts established for the payment of any Limited Pledge Obligations hereafter issued by the City in accordance with the terms and provisions of any ordinances authorizing their issuance.

Any Net Revenues remaining in the System Fund after satisfying the foregoing payments, or making adequate and sufficient provision for the payment, security and benefit thereof, may be appropriated and used for any other City purpose now or hereafter permitted by law.

SECTION 14. Deposits to Bond Fund; Surplus Bond Proceeds. The City hereby covenants and agrees to cause to be deposited in the Bond Fund prior to a principal and interest payment date for the Bonds, from the Net Revenues in the System Fund, any amounts budgeted to be paid therefrom in such Fiscal Year.

Accrued interest, if any, received from the Purchasers of the Bonds shall be deposited to the Bond Fund and ad valorem taxes levied and collected for the benefit of the Bonds shall be deposited to the Bond Fund. In addition, any surplus proceeds, including investment income therefrom, from the sale of the Bonds not expended for authorized purposes shall be deposited in the Bond Fund, and such amounts so deposited shall reduce the sums otherwise required to be deposited in said fund from ad valorem taxes. As interest accrues from the date of initial delivery of the Bonds to the Purchasers, there will be no accrued interest.

SECTION 15. Reserve Fund. The City previously created, established, and currently maintains a separate and special fund or account known as the “City of Wimberley, Texas Sewer System Revenue Bond Reserve Fund” (the *Reserve Fund*), which fund or account is maintained at the Depository. Upon the issuance of the Exchanged Obligations, the City shall transfer all amounts on deposit in the Reserve Fund to the escrow account maintained pursuant to the terms of the Escrow Agreement (as defined herein) and the Reserve Fund shall be closed as soon as practicable thereafter.

SECTION 16. Security of Funds. All money on deposit in the funds for which this Ordinance makes provision (except any portion thereof as may be at any time properly invested as provided herein) shall be secured in the manner and to the fullest extent required by the laws of

Texas for the security of public funds (including as required by and in accordance with the Texas Public Funds Collateral Act, codified at Chapter 2257, as amended, Texas Government Code), and money on deposit in such funds shall be used only for the purposes permitted by this Ordinance.

SECTION 17. Maintenance of System - Insurance. The City covenants and agrees that while the Bonds remain Outstanding it will maintain and operate the System with all possible efficiency and maintain casualty and other insurance (including a system of self-insurance) on the properties of the System and its operations of a kind and in such amounts customarily carried by municipal corporations in the State of Texas engaged in a similar type of business and that it will faithfully and punctually perform all duties with reference to the System required by the laws of the State of Texas, but in no event shall the amount of insurance maintained on the projects financed with the proceeds of the Bonds be less than the amount necessary to protect the Purchasers' interest. All money received from losses under such insurance policies, other than public liability policies, are held for the benefit of the holders of the Bonds until and unless the proceeds are paid out in making good the loss or damage in respect of which such proceeds are received, either by replacing the property destroyed or repairing the property damaged, and adequate provision for making good such loss or damage must be made within ninety (90) days after the date of loss. The payment of premiums for all insurance policies required under the provisions hereof shall be considered Maintenance and Operating Expenses. Nothing in this Ordinance shall be construed as requiring the City to expend any funds which are derived from sources other than the operation of the System but nothing herein shall be construed as preventing the City from doing so.

SECTION 18. Rates and Charges. The City hereby covenants and agrees with the Holders of the Bonds that rates and charges for utility services afforded by the System will be established and maintained to provide Gross Revenues sufficient at all times:

A. to pay, together with any other lawfully available funds, all operating, maintenance, depreciation, replacement, betterment, and other costs incurred in the maintenance and operation of the System, including, but not limited to, Maintenance and Operating Expenses; provided, however, that the City expressly reserves the right to utilize other lawfully available funds to pay the Maintenance and Operating Expenses;

B. to produce Net Revenues sufficient, together with any other lawfully available funds, to pay (i) the principal of and interest on the Bonds and any Additional Prior Lien Obligations hereafter issued by the City as the same becomes due and payable and the amounts required to be deposited in any special fund created and established for the payment, security, and benefit thereof; (ii) the interest on and principal of any Junior Lien Obligations hereafter issued by the City as the same becomes due and payable and the amounts required to be deposited in any special fund created and established for the payment, security, and benefit thereof; (iii) the interest on and principal of any Subordinate Lien Obligations hereafter issued by the City as the same becomes due and payable and the amounts required to be deposited in any special fund created and established for the payment, security, and benefit thereof; and (iv) the amounts that may be deposited in the special funds established for the payment of any Limited Pledge Obligations hereafter issued by the City; and

C. to pay other legally incurred indebtedness payable from the Net Revenues of the System and/or secured by a lien on the System or the Net Revenues thereof.

SECTION 19. Records and Accounts - Annual Audit. The City further covenants and agrees that so long as any of the Bonds remain Outstanding it will keep and maintain separate and complete records and accounts pertaining to the operations of the System in which complete and correct entries shall be made of all transactions relating thereto, as provided by Chapter 1502, as amended, Texas Government Code, or other applicable law. The Holders of the Bonds or any duly authorized agent or agents of the Holders shall have the right to inspect the System and all properties comprising the same. The City further agrees that, following the close of each Fiscal Year, it will cause an audit of such books and accounts to be made by an independent firm of certified public accountants, which annual audit shall be prepared in accordance with generally accepted auditing standards (as required by and in accordance with the provisions of 31 TAC § 375.91(a)(2)(L)). Copies of each annual audit shall be furnished within 180 days after the end of the City's fiscal year end, without charge, to (i) the Texas Water Development Board, Attention: Executive Administrator and (ii) upon written request, and at the expense of such Holder, to any subsequent Holder thereof. Expenses incurred in making the annual audit of the operations of the System are to be regarded as Maintenance and Operating Expenses.

SECTION 20. Remedies in Event of Default. In addition to all the rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in the payments to be made to the Bond Fund, or (b) defaults in the observance or performance of any other of the covenants, conditions, or obligations set forth in this Ordinance, the Holders of any of the Bonds shall be entitled to seek a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the governing body of the City and other officers of the City to observe and perform any covenant, condition, or obligation prescribed in this Ordinance.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient. The specific remedies herein provided shall be cumulative of all other existing remedies and the specification of such remedies shall not be deemed to be exclusive.

For the avoidance of doubt, for so long as the Purchasers are Holders of the Bonds, the Purchasers may exercise all remedies available to it at law or in equity, and any provision of this Ordinance or the Bonds that attempts to restrict or limit this right to exercise remedies shall be of no force or effect.

SECTION 21. Issuance of Additional Prior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations, and Limited Pledge Obligations. The City hereby expressly reserves the right to hereafter issue bonds, notes, warrants, certificates of obligation, or similar obligations, payable, wholly or in part, as appropriate, from and secured by a pledge of and lien on the Net Revenues of the System with the following priorities, without limitation as to principal amount, but subject to any terms, conditions, or restrictions applicable thereto under existing ordinances, laws, or otherwise:

A. Additional Prior Lien Obligations payable from and equally and ratably secured by a first and prior lien on and pledge of the Pledged Revenues of the System;

B. Junior Lien Obligations payable from and equally and ratably secured by a lien on and pledge of the Net Revenues that is junior and inferior to the lien on and pledge thereof securing the payment of the Bonds and any Additional Prior Lien Obligations hereafter issued by the City, but prior and superior to the lien on and pledge of the Net Revenues securing the payment of any Subordinate Lien Obligations and any Limited Pledge Obligations hereafter issued by the City; and

C. Subordinate Lien Obligations payable from and equally and ratably secured by a lien on and pledge of the Net Revenues that is subordinate and inferior to the lien on and pledge thereof securing the payment of the Bonds and any Additional Prior Lien Obligations or Junior Lien Obligations hereafter issued by the City, but prior and superior to the lien on and pledge of the Net Revenues securing, in part, the payment of any Limited Pledge Obligations hereafter issued by the City; and

D. Limited Pledge Obligations secured by a lien on and pledge of a limited amount of the Net Revenues in accordance with the provisions of the following paragraph.

Additional Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations, if issued, may be payable, in whole or in part, from Net Revenues upon such terms and conditions as the City Council may determine. Limited Pledge Obligations, if issued and payable, in whole or in part, from a limited pledge of available Net Revenues, shall not in any event be construed to be payable from the Pledged Revenues authorized by this Ordinance to be budgeted and appropriated for the payment of the Bonds. However, the lien on and pledge of the limited amount of Net Revenues securing, in part, the payment of any Limited Pledge Obligations shall be subordinate and inferior to the pledge of and lien on the Net Revenues securing the payment of the Bonds and any Additional Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City.

SECTION 22. Special Covenants. The City hereby further covenants that:

A. it has the lawful power to pledge the Pledged Revenues supporting the Bonds and has lawfully exercised said powers under the laws of the State of Texas, including power existing under Chapter 1502, as amended, Texas Government Code;

B. other than for the payment of the Bonds, the Net Revenues of the System have not in any manner been pledged to the payment of any debt or obligation of the City or of the System;

C. as long as any Bonds or any interest thereon remain Outstanding, the City will not sell, lease or encumber (except in the manner provided in Section 21 of this Ordinance) the System or any substantial part thereof, provided that this covenant shall not be construed to prohibit the sale of such machinery, or other properties or equipment which has become obsolete or otherwise unsuited to the efficient operation of the System;

D. to the extent that it legally may, the City further covenants and agrees that, so long as any of the Bonds, or any interest thereon, are Outstanding, no franchise shall be granted for the

installation or operation of any competing utility systems other than those owned by the City, and the operation of any such systems by anyone other than the City is hereby prohibited; and

E. no free service of the System shall be allowed, and should the City or any of its agents or instrumentalities make use of the services and facilities of the System, payment of the reasonable value thereof shall be made by the City out of funds from sources other than the revenues and income of the System.

SECTION 23. Application of the Covenants and Agreements of any Additional Prior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations, or Limited Pledge Obligations. It is the intention of the City Council and accordingly hereby recognized and stipulated that the provisions, agreements, and covenants contained herein bearing upon the management and operations of the System, and the administration and application of Gross Revenues derived from the operation thereof, shall to the extent possible be harmonized with like provisions, agreements, and covenants contained in the ordinances authorizing the issuance of the Bonds and any Additional Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City, and to the extent of any irreconcilable conflict between the provisions contained herein and in the ordinances authorizing the issuance of the Bonds and any Additional Prior Lien Obligations hereafter issued, the provisions, agreements and covenants contained therein shall prevail to the extent of such conflict and be applicable to this Ordinance, especially the priority of rights and benefits conferred thereby to the holders of the Bonds and any Additional Prior Lien Obligations hereafter issued by the City. It is expressly recognized that prior to the issuance of any Additional Prior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations, or Limited Pledge Obligations, the City must comply with each of the conditions precedent contained in the ordinances authorizing the issuance of the Bonds and any Additional Prior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations, or Limited Pledge Obligations, as appropriate.

SECTION 24. Notices to Holders, Waiver. Wherever this Ordinance provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States mail, first-class postage prepaid, to the address of each Holder as it appears in the Security Register.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Holders. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 25. Cancellation. All Bonds surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly canceled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already canceled, shall be promptly canceled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Bonds previously certified or

registered and delivered which the City may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly canceled by the Paying Agent/Registrar. All canceled Bonds held by the Paying Agent/Registrar shall be destroyed as directed by the City.

SECTION 26. Mutilated, Destroyed, Lost, and Stolen Bonds. If (1) any mutilated Bond is surrendered to the Paying Agent/Registrar, or the City and the Paying Agent/Registrar receive evidence to their satisfaction of the destruction, loss, or theft of any Bond, and (2) there is delivered to the City and the Paying Agent/Registrar such security or indemnity as may be required to save each of them harmless, then, in the absence of notice to the City or the Paying Agent/Registrar that such Bond has been acquired by a bona fide purchaser, the City shall execute and, upon its request, the Paying Agent/Registrar shall register and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost, or stolen Bond, a new Bond of the same Stated Maturity and interest rate and of like tenor and principal amount, bearing a number not contemporaneously Outstanding.

In case any such mutilated, destroyed, lost, or stolen Bond has become or is about to become due and payable, the City in its discretion may, instead of issuing a new Bond, pay such Bond.

Upon the issuance of any new Bond or payment in lieu thereof, under this Section, the City may require payment by the Holder of a sum sufficient to cover any tax or other governmental charge imposed in relation thereto and any other expenses and charges (including attorney's fees and the fees and expenses of the Paying Agent/Registrar) connected therewith.

Every new Bond issued pursuant to this Section in lieu of any mutilated, destroyed, lost, or stolen Bond shall constitute a replacement of the prior obligation of the City, whether or not the mutilated, destroyed, lost, or stolen Bond shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost, or stolen Bonds.

SECTION 27. Exchange of the Bonds. The Bonds will be delivered to the Texas Water Development Board (the *Purchasers* and having all the rights, benefits, and obligations of a Holder) in consideration for and the exchange and cancellation of the Exchanged Obligations. Delivery of the Bonds to the Purchasers shall occur as soon as practicable after the adoption of this Ordinance and in conjunction with the cancellation of the Exchanged Obligations.

SECTION 28. Covenants to Maintain Tax-Exempt Status.

A. Definitions. When used in this Section, the following terms have the following meanings:

“*Closing Date*” means the date on which the Bonds are first authenticated and delivered to the initial purchasers again in exchange for the Exchanged Obligations.

“*Code*” means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

“*Computation Date*” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“*Gross Proceeds*” means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

“*Investment*” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“*Nonpurpose Investment*” means any investment property, as defined in section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

“*Rebate Amount*” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“*Regulations*” means any proposed, temporary, or final Income Tax Regulations issued pursuant to sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

“*Yield*” of

(1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations; and

(2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

B. Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Bond to become includable in the gross income, as defined in section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the City shall comply with each of the specific covenants in this Section.

C. No Private Use or Private Payments. Except to the extent that it will not cause the Bonds to become “private activity bonds” within the meaning of section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Bonds:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly

with Gross Proceeds of the Bonds, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

D. No Private Loan. Except as would not cause the Bonds to become “private activity bonds” within the meaning of section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be “loaned” to a person or entity if- (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

E. Not to Invest at Higher Yield. Except as would not cause the Bonds to become “arbitrage bonds” within the meaning of section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment, if as a result of such investment the Yield of any Investment acquired with Gross Proceeds, whether then held or previously disposed of, materially exceeds the Yield of the Bonds.

F. Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of section 149(b) of the Code and the Regulations and rulings thereunder.

G. Information Report. The City shall timely file the information required by section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

H. Rebate of Arbitrage Profits. Except to the extent otherwise provided in section 148(f) of the Code and the Regulations and rulings thereunder:

(1) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from

all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last Outstanding Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Bonds by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of the Bond Fund or its general fund, as permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

I. Not to Divert Arbitrage Profits. Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection H of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.

J. Bonds Not Hedge Bonds.

(1) The City reasonably expects to spend at least 85% of the spendable proceeds of the Bonds within three years after such Bonds are issued.

(2) Not more than 50% of the proceeds of the Bonds will be invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.

K. Current Refunding of the Exchanged Obligations. The Bonds are being issued to refund the Exchanged Obligations, and the Bonds will be issued within 90 days after the Closing Date for the exchange of the Exchanged Obligations. The City has complied with the covenants, representations, and warranties contained in the documents executed in connection with the issuance of the Exchanged Obligations.

L. Elections. The City hereby directs and authorizes each Authorized Official, either individually or any combination of them, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document. Such elections shall be deemed to be made on the Closing Date.

M. Qualified Tax-Exempt Obligations. The City hereby designates the Bonds as *qualified tax-exempt obligations* for purposes of section 265(b) of the Code. In furtherance of such designation, the City represents, covenants and warrants the following: (a) during the calendar year in which the Bonds are issued, the City (including any subordinate entities) has not designated nor will designate obligations, which when aggregated with the Bonds, will result in more than \$10,000,000 of “qualified tax-exempt obligations” being issued; (b) the City reasonably anticipates that the amount of tax-exempt obligations issued during the calendar year 2019 by the City (including any subordinate entities) will not exceed \$10,000,000; and (c) the City will take such action or refrain from such action as is necessary in order that the Bonds will not be considered “private activity bonds” within the meaning of section 141 of the Code.

SECTION 29. Control and Custody of Bonds. The Mayor of the City shall be and is hereby authorized to take and have charge of all necessary orders and records pending investigation by the Attorney General of the State of Texas and shall take and have charge and control of the Bonds pending their approval by the Attorney General of the State of Texas, the registration thereof by the Comptroller of Public Accounts of the State of Texas and the delivery of the Bonds to the Purchasers.

Furthermore, each Authorized Official, either individually or any combination of them, is hereby authorized and directed to furnish and execute such documents relating to the City and its financial affairs as may be necessary for the issuance of the Bonds, the approval of the Attorney General of the State of Texas and their registration by the Comptroller of Public Accounts of the State of Texas and, together with the City’s financial advisor, bond counsel, and the Paying Agent/Registrar, make the necessary arrangements for the delivery of the Initial Bond to the Purchasers and, when requested in writing by the Purchasers, the initial exchange thereof for definitive Bonds.

SECTION 30. Satisfaction of Obligation of City. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Bonds, at the times and in the manner stipulated in this Ordinance, then the pledge of taxes levied and the lien on and pledge of the Pledged Revenues under this Ordinance and all covenants, agreements, and other obligations of the City to the Holders shall thereupon cease, terminate, and be discharged and satisfied.

Bonds, or any principal amount(s) thereof, shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Bonds or the principal amount(s) thereof at Stated Maturity or to the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, and/or (ii) Government Securities shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Securities shall mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any money deposited therewith, if any, to pay when due the principal of and interest on such Bonds, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof. In the event of a defeasance of the Bonds, the City shall deliver a certificate from its financial advisor, the Paying Agent/Registrar, or another qualified third party concerning the sufficiency of the deposit of cash and/or Government Securities to pay, when due, the principal of, redemption premium (if any), and interest due on any defeased Bond. To the extent applicable, if at all, the City covenants that no deposit of money or Government Securities will be made under this Section and no use made of any such deposit which would cause the Bonds to be treated as arbitrage bonds within the meaning of section 148 of the Code (as defined in Section 28 hereof).

Any money so deposited with the Paying Agent/Registrar, and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Bonds, or any principal amount(s) thereof, or interest thereon with respect to which such money has been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of three (3) years after the Stated Maturity of the Bonds, or applicable redemption date of the Bonds, such money was deposited and is held in trust to pay shall upon the request of the City be remitted to the City against a written receipt therefor, subject to the unclaimed property laws of the State of Texas.

Notwithstanding any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem defeased Bonds that is made in conjunction with the payment arrangements specified in subsection (i) or (ii) above shall not be irrevocable, provided that: (1) in the proceedings providing for such defeasance, the City expressly reserves the right to call the defeased Bonds for redemption; (2) gives notice of the reservation of that right to the owners of the defeased Bonds immediately following the defeasance; (3) directs that notice of the reservation be included in any redemption notices that it authorizes; and (4) at the time of the redemption, satisfies the conditions of (i) or (ii) above with respect to such defeased debt as though it was being defeased at the time of the exercise of the option to redeem the defeased Bonds, after taking the

redemption into account in determining the sufficiency of the provisions made for the payment of the defeased Bonds.

SECTION 31. Printed Opinion. The Purchasers' obligation to accept delivery of the Bonds is subject to their being furnished a final opinion of Norton Rose Fulbright US LLP, as Bond Counsel, approving certain legal matters as to the Bonds, this opinion to be dated and delivered as of the date of initial delivery or such Bonds. Printing of a true and correct copy of this opinion on the reverse side of each of the Bonds, with appropriate certificate pertaining thereto executed by facsimile signature of the City Secretary of the City is hereby approved and authorized.

SECTION 32. CUSIP Numbers. CUSIP numbers, if any, may be printed or typed on the definitive Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Bonds shall be of no significance or effect as regards the legality thereof, and neither the City nor Bond Counsel are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Bonds.

SECTION 33. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 34. Request for Scope Modification to Texas Water Development Board. The City Council ratifies and confirms its prior approval of the form and content of the Request for Scope Modification submitted to the Texas Water Development Board prepared in connection with the issuance of the Bonds and hereby approves the form and content of any addenda, supplement, or amendment thereto.

SECTION 35. Compliance with Purchasers' Rules and Regulations. The City will comply with all of the requirements contained in the resolution or resolutions adopted by the Purchasers with respect to the issuance of the Bonds. In addition, in compliance with the Purchasers' Clean Water State Revolving Fund Program Rules, the City agrees and covenants:

A. The City will comply with all applicable requirements contained in 31 TAC Chapter 375;

B. upon completion of the construction of the projects financed, in whole or in part, by the loan evidenced by the Exchanged Obligations, to provide a final accounting to the Purchasers of the total costs of the projects. Thereafter, the City shall submit a final accounting and a final funds registration form to the Executive Administrator, or her designee. Upon receipt of this information, the Purchasers shall within 60 days of receipt of this information provide written direction of the City of the course of action to be taken with respect to such surplus funds. If the projects as finally completed are built at a total cost less than the amount of available funds for building the projects, or if the Executive Administrator of the Purchasers disapproves construction of any portion of such projects as not being in accordance with the plans and specifications, the City agrees to immediately, with filing of the final accounting, return to the Purchasers the amount of any such excess and/or the cost determined by the Executive Administrator of the Purchasers relating to the parts of such projects not built in accordance with the plans and specifications, to the nearest multiple of the authorized denominations for the Bonds, by (i) the effectuation of a redemption of such amount of Bonds pursuant to Section 4.B hereof,

(ii) the deposit into the Bond Fund for the next scheduled payment of interest or principal on the Bonds, or (iii) spending such amount on other eligible project costs as authorized by the Executive Administrator. In determining the amount of available funds for building the project, the City agrees to account for all amounts deposited to the credit of the Construction Fund, including all loan funds extended by the Purchasers, all other funds available from the projects as described in the project engineer's or fiscal representative's sufficiency of funds statement and all interest earned by the City on money in the Construction Fund;

C. the Bonds must contain a provision that the Purchasers may exercise all remedies available to it in law or equity, and any provision of the Bonds that restricts or limits the Purchasers' full exercise of these remedies shall be of no force and effect;

D. loan proceeds are public funds and, as such, the proceeds of the Exchanged Obligations shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257;

E. loan proceeds shall not be used by the City when sampling, testing, removing or disposing of contaminated soils and/or media at the project site and the City also agrees, to the extent permitted by law, to indemnify, hold harmless and protect the Purchasers from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment, and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the City, its contractors, consultants, agents, officials, and employees as a result of activities relating to the project to the extent permitted by law;

F. the City acknowledges that the Exchanged Obligations included a provision stating that all laborers and mechanics employed by contractors and subcontractors for projects shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality in accordance with subchapter IV of chapter 31 of Title 40 of the United States Code (the *Davis-Bacon Act*), and the U.S. Department of Labor's implementing regulations. The City, all contractors, and all sub-contractors shall continue to ensure that all project contracts mandate compliance with the Davis-Bacon Act. All contracts and subcontracts for the construction of the project carried out in whole or in part with financial assistance made available as provided herein shall insert in full in any contract in excess of \$2,000 the contracts clauses as provided by the Purchasers;

G. to provide the Purchasers with all information required to be reported in accordance with the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, as amended by Pub. L. 100-252. The City shall obtain a Data Universal Numbering System (*DUNS*) Number and shall register with the System for Award Management (*SAM*), and maintain current registration at all times during which the Bonds are outstanding;

H. all loan proceeds will be timely and expeditiously used, as required by federal statute (40 CFR §35.135(d)) and also shall provide that the City will adhere to an Executive Administrator-approved project schedule, which shall not be altered except for good cause shown and only with the written approval of the Executive Administrator;

I. the City acknowledges that the Exchanged Obligations included a covenant that the City will abide and the City will continue to abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by the 2014 Federal Appropriations Act and related State Revolving Fund Policy Guidelines; and

J. the City acknowledges that the Exchanged Obligations included language detailing compliance with the requirements set forth in 33 U.S.C. §1382 et seq. related to maintaining project accounts containing financial assistance for planning, design, acquisition, or construction, as applicable, in accordance with generally accepted accounting principles (GAAP). These standards and principles also apply to the reporting of underlying infrastructure assets. The City agrees to continue to comply with these requirements.

SECTION 36. Authorization of Escrow Agreement. The escrow agreement authorized by the City Council pursuant to the ordinance authorizing the issuance of the Exchanged Obligations (the *Escrow Agreement*) remains in full force and effect and is attached hereto as Exhibit B. Any Authorized Official is authorized to execute any amendment to the Escrow Agreement to effectuate the issuance of the Bonds and the exchange of the Exchanged Obligations as the act and deed of the City Council.

SECTION 37. Ordinance a Contract, Amendments – Outstanding Bonds. The City acknowledges that the covenants and obligations of the City herein contained are a material inducement to the purchase of the Bonds. This Ordinance shall constitute a contract with the Holders from time to time, binding on the City and its successors and assigns, and it shall not be amended or repealed by the City so long as any Bond remains Outstanding except as permitted in this Section. The City may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the written consent of Holders holding a majority in aggregate principal amount of the Bonds then Outstanding affected thereby, amend, add to, or rescind any of the provisions of this Ordinance; provided, however, that without the consent of all Holders of Outstanding Bonds, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of and interest on the Bonds, reduce the principal amount thereof or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, the redemption price therefor, or interest on the Bonds, (2) give any preference to any Bond over any other Bond, or (3) reduce the aggregate principal amount of Bonds required for consent to any such amendment, addition, or rescission.

SECTION 38. Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, Bond Counsel, Paying Agent/Registrar, and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, this Ordinance and all its provisions being intended to be and being for the sole and exclusive benefit of the City, Bond Counsel, the Paying Agent/Registrar, and the Holders.

SECTION 39. Inconsistent Provisions. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to

the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters ordained herein.

SECTION 40. Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 41. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 42. Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

SECTION 43. Incorporation of Preamble Recitals. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council of the City.

SECTION 44. Authorization of Paying Agent/Registrar Agreement. The City Council of the City hereby finds and determines that it is in the best interest of the City to authorize the execution of a Paying Agent/Registrar Agreement concerning the payment, exchange, registration, and transferability of the Bonds. A copy of the Paying Agent/Registrar Agreement is attached hereto, in substantially final form, as Exhibit A and is incorporated by reference to the provisions of this Ordinance.

SECTION 45. Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 46. Unavailability of Authorized Publication. If, because of the temporary or permanent suspension of any newspaper, journal, or other publication, or, for any reason, publication of notice cannot be made meeting any requirements herein established, any notice required to be published by the provisions of this Ordinance shall be given in such other manner and at such time or times as in the judgment of the City or of the Paying Agent/Registrar shall most effectively approximate such required publication and the giving of such notice in such manner shall for all purposes of this Ordinance be deemed to be in compliance with the requirements for publication thereof.

SECTION 47. No Recourse Against City Officials. No recourse shall be had for the payment of principal of, premium, if any, or interest on any Bond or for any claim based thereon or on this Ordinance against any official of the City or any person executing any Bond.

SECTION 48. Continuing Disclosure Undertaking.

A. Definitions.

As used in this Section, the following terms have the meanings ascribed to such terms below:

*EMMA* means the MSRB's Electronic Municipal Market Access system, accessible by the general public, without charge, on the internet through the uniform resource locator (URL) <http://www.emma.msrb.org>.

*Financial Obligation* means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that "financial obligation" shall not include municipal securities (as defined in the Securities Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

*MSRB* means the Municipal Securities Rulemaking Board.

*Rule* means SEC Rule 15c2-12, as amended from time to time.

*SEC* means the United States Securities and Exchange Commission.

B. Annual Reports.

The City shall file annually with the MSRB, within six months after the end of each Fiscal Year ending in or after 2019, financial information and operating data with respect to the City of the general type included in the final application to the Texas Water Development Board authorized by the City in conjunction with the issuance of the Exchanged Obligations (the *Application*), being the information described in Exhibit E hereto. All such information must be filed with MSRB pursuant to its Electronic Municipal Access (EMMA) System. Any financial statements so to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit C hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation and (ii) audited, if the City commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall file unaudited financial statements within such period and audited financial statements for the applicable Fiscal Year with the MSRB, when and if the audit report on such statements becomes available. Under current Texas law, including, but not limited to, Chapter 103, as amended, Texas Local Government Code, the City must have its records and accounts audited annually and shall have an annual financial statement prepared based on the audit. The annual financial statement, including the auditor's opinion on the statement, shall be filed in the office of the City Secretary within 180 days after the last day of the City's Fiscal Year. Additionally, upon the filing of this financial statement and the annual audit, these documents are subject to the Texas Open Records Act, as amended, Texas Government Code, Chapter 552.

If the City changes its Fiscal Year, it will file notice thereof with the MSRB of such change (and of the date of the new Fiscal Year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

C. Notice of Certain Events. The City shall file notice of any of the following events with respect to the Bonds, to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults, if material;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) modifications to rights of Holders of the Bonds, if material;
- (8) Bond calls, if material, and tender offers;
- (9) defeasances;
- (10) release, substitution, or sale of property securing repayment of the Bonds, if material;
- (11) rating changes;
- (12) bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
- (13) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) appointment of a successor or additional paying agent/registrars or the change of name of a paying agent/registrars, if material;
- (15) Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and

(16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City, and (b) the City intends the words used in the immediately preceding paragraphs (15) and (16) and the definition of Financial Obligation in this Section to have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

The City shall file notice with the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with this Section by the time required by this Section.

D. Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any deposit that causes the Bonds to be no longer Outstanding.

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITH OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under the Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the holders and beneficial owners of the Bonds. The City may also repeal or amend the provisions of this Section if the SEC amends or repeals the applicable provisions of the Rule or any court of final jurisdiction enters judgment that such provisions of the Rule are invalid, and the City also may amend the provisions of this Section in its discretion in any other manner or circumstance, but in either case only if and to the extent that the provisions of this sentence would not have prevented an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds, giving effect to (a) such provisions as so amended and (b) any amendments or interpretations of the Rule. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with subsection B of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

E. Information Format – Incorporation by Reference.

The City information required under this Section shall be filed with the MSRB through EMMA in such format and accompanied by such identifying information as may be specified from time to time thereby. Under the current rules of the MSRB, continuing disclosure documents submitted to EMMA must be in word-searchable portable document format (PDF) files that permit the document to be saved, viewed, printed, and retransmitted by electronic means and the series of obligations to which such continuing disclosure documents relate must be identified by CUSIP number or numbers.

Financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document) available to the public through EMMA or filed with the SEC.

F. General Policies and Procedures Concerning Compliance with Federal Securities Laws.

Because the issuance of the Bonds is subject to the provisions of the Rule and because the potential “underwriters” in a negotiated sale of the Bonds or the initial purchasers in a competitive sale of the Bonds may be subject to MSRB rules and regulations with respect to such sale (including certain due diligence and suitability requirements, among others), the City hereby adopts the General Policies and Procedures Concerning Compliance with the Rule (the *Policies and Procedures*), attached hereto as Exhibit E, with which the City shall follow to assure compliance with the Undertaking. The City has developed these Policies and Procedures for the purpose of meeting its requirements of the Undertaking and, in connection therewith, has sought the guidance from its internal staff charged with administering the City’s financial affairs, its municipal or financial advisors, its legal counsel (including its Bond Counsel), and its independent accountants (to the extent determined to be necessary or advisable). The Policies and Procedures can be amended at the sole discretion of the City and any such amendment will not be deemed to be an amendment to the Undertaking. Each Authorized Official is hereby authorized to amend the Policies and Procedures as a result of a change in law, a future issuance of indebtedness subject to the Rule, or another purpose determined by the Authorized Official to be necessary or desirable for or with respect to future compliance with the Undertaking.

SECTION 49. Book-Entry Only System.

It is intended that the Bonds will initially be registered so as to participate in a securities depository system (the *DTC System*) with the Depository Trust Company, New York, New York, or any successor entity thereto (*DTC*), as set forth herein. Each Stated Maturity of the Bonds shall be issued (following cancellation of the Initial Bond described in Section 7) in the form of a separate single definitive Bond. Upon issuance, the ownership of each such Bond shall be registered in the name of Cede & Co., as the nominee of DTC, and all of the Outstanding Bonds shall be registered in the name of Cede & Co., as the nominee of DTC. The City and the Paying Agent/Registrar are authorized to execute, deliver, and take the actions set forth in such letters to or agreements with DTC as shall be necessary to effectuate the DTC System, including the Letter of Representations attached hereto as Exhibit D (the *Representation Letter*).

With respect to the Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any broker-dealer, bank, or other financial institution for which DTC holds the Bonds from time to time as securities depository (a *Depository Participant*) or to any person on behalf of whom such a Depository Participant holds an interest in the Bonds (an *Indirect Participant*). Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co., or any Depository Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Depository Participant or any other person, other than a registered owner of the Bonds, as shown on the Security Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the delivery to any Depository Participant or any Indirect Participant or any other Person, other than a Holder of a Bond, of any amount with respect to principal of, premium, if any, or interest on the Bonds. While in the DTC System, no person other than Cede & Co., or any successor thereto, as nominee for DTC, shall receive a bond certificate evidencing the

obligation of the City to make payments of principal, premium, if any, and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks or drafts being mailed to the Holder, the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

In the event that (a) the City determines that DTC is incapable of discharging its responsibilities described herein and in the Representation Letter, (b) the Representation Letter shall be terminated for any reason, or (c) DTC or the City determines that it is in the best interest of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the City shall notify the Paying Agent/Registrar, DTC, and the Depository Participants of the availability within a reasonable period of time through DTC of bond certificates, and the Bonds shall no longer be restricted to being registered in the name of Cede & Co., as nominee of DTC. At that time, the City may determine that the Bonds shall be registered in the name of and deposited with a successor depository operating a securities depository system, as may be acceptable to the City, or such depository's agent or designee, and if the City and the Paying Agent/Registrar do not select such alternate securities depository system then the Bonds may be registered in whatever name or names the Holders of Bonds transferring or exchanging the Bonds shall designate, in accordance with the provisions hereof.

Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the Representation Letter.

SECTION 50. Further Procedures. The officers and employees of the City are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the initial sale and delivery of the Bonds, the Request for Scope Modification, and the Paying Agent/Registrar Agreement. In addition, prior to the initial delivery of the Bonds, any Authorized Official and Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance and as described in the Request for Scope Modification necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance, (ii) obtain a rating from any of the national bond rating agencies, or (iii) obtain the approval of the Bonds by the Texas Attorney General's office. In case any officer of the City whose signature shall appear on any certificate shall cease to be such officer before the delivery of such certificate, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 51. Effective Date. This Ordinance shall be in force and effect from and after its final passage, and it is so ordained.

PASSED AND ADOPTED on the \_\_\_\_ day of April, 2019.

CITY OF WIMBERLEY, TEXAS

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Secretary

(CITY SEAL)

## INDEX TO SCHEDULES AND EXHIBITS

Schedule I.....	Schedule of Exchanged Obligations
Exhibit A .....	Paying Agent/Registrar Agreement
Exhibit B .....	Escrow Agreement
Exhibit C .....	Description of Annual Financial Information
Exhibit D .....	DTC Letter of Representations
Exhibit E.....	General Policies and Procedures Concerning Compliance with the Rule

## **Schedule I**

### **Exchanged Obligations**

City of Wimberley, Texas Sewer System Revenue Bonds, Series 2017, dated July 15, 2017, in the original principal amount of \$5,255,000 (the *Exchanged Obligations*), purchased and currently held by the Texas Water Development Board, stated to mature on August 1 in each of the years 2019 through 2046 in the aggregate principal amount of \$5,255,000, to be exchanged for the Bonds with the Texas Water Development Board on the Closing Date.

**EXHIBIT A**

**PAYING AGENT/REGISTRAR AGREEMENT**

SEE TAB NO. \_\_

**EXHIBIT B**  
**ESCROW AGREEMENT**

## **EXHIBIT C**

### **DESCRIPTION OF ANNUAL FINANCIAL INFORMATION**

The following information is referred to in Section 48 of this Ordinance.

#### **Annual Financial Statements and Operating Data**

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Appendix or under the headings of the Application referred to) below:

The City's audited financial statements for the most recently concluded fiscal year or to the extent these audited financial statements are not available, the portions of the unaudited financial statements of the City referenced in the Application, but for the most recently concluded fiscal year.

#### **Accounting Principles**

The accounting principles referred to in such Section are generally accepted accounting principles for governmental units as prescribed by the Government Accounting Standards Board from time to time.

**EXHIBIT D**

DTC LETTER OF REPRESENTATIONS

SEE TAB NO. \_\_

## EXHIBIT E

### General Policies and Procedures Concerning Compliance with the Rule

- I. Capitalized terms used in this Exhibit have the meanings ascribed thereto in Section 48 of the Ordinance. “Bonds” refers to the Bonds that are the subject of the Ordinance to which this Exhibit is attached.
- II. As a capital markets participant, the City is aware of its continuing disclosure requirements and obligations existing under the Rule prior to February 27, 2019, the effective date of the most recent amendment to the Rule (the *Effective Date*), and has implemented and maintained internal policies, processes, and procedures to ensure compliance therewith. Adherence to these internal policies, processes, and procedures has enabled underwriters in non-exempt negotiated sales and initial purchasers in non-exempt competitive sales to comply with their obligations arising under various MSRB rules and regulations concerning due diligence and findings of suitability, among other matters, regarding the City’s compliance with the Rule.
- III. The City is aware that the Rule was amended as of the Effective Date (the *Rule Amendment*) and has accommodated this amendment by adding subparagraphs (15) and (16) to Section 47 of the Ordinance, which provisions are a part of the Undertaking.
- IV. The City is aware that “participating underwriters” (as such term is defined in the Rule) of the Bonds must make inquiry and reasonably believe that the City is likely to comply with the Undertaking and that the standards for determining compliance have increased over time as a result of, among others, the United States Securities and Exchange Commission’s Municipalities Continuing Disclosure Cooperation Initiative and regulatory commentary relating to the effectiveness of the Rule Amendment.
- V. The City now establishes the following general policies and procedures (the *Policies and Procedures*) for satisfying its obligations pursuant to the Undertaking, which policies and procedures have been developed based on the City’s informal policies, procedures, and processes utilized prior to the Effective Date for compliance with the City’s obligations under the Rule, the advice from and discussions with the City’s internal senior staff (including staff charged with administering the City’s financial affairs), its municipal or financial advisors, its legal counsel (including Bond Counsel), and its independent accountants, to the extent determined to be necessary or advisable (collectively, the *Compliance Team*):
  - a. City Administrator (the *Compliance Officer*) shall be responsible for satisfying the City’s obligations pursuant to the Undertaking through adherence to these Policies and Procedures;
  - b. the Compliance Officer shall establish reminder or “tickler” systems to identify and timely report to the MSRB, in the format thereby prescribed from time to time, the City’s information of the type described in Section 48 of the Ordinance;
  - c. the Compliance Officer shall promptly determine the occurrence of any of the events described in Section 48 of the Ordinance;
  - d. the Compliance Officer shall work with external consultants of the City, as and to the extent necessary, to timely prepare and file with the MSRB the annual information of the City and notice of the occurrence of any of the events referenced

in Clauses 2 and 3 above, respectfully, the foregoing being required to satisfy the terms of the Undertaking;

- e. the Compliance Officer shall establish a system for identifying and monitoring any Financial Obligations, whether now existing or hereafter entered into by the Issuer, and (upon identification) determining if such Financial Obligation has the potential to materially impact the security or source of repayment of the Bonds;
- f. upon identification of any Financial Obligation meeting the materiality standard identified in Clause 5 above, the Compliance Officer shall establish a process for identifying and monitoring any City agreement to covenants, events of default, remedies, priority rights, or other similar terms under such Financial Obligation;
- g. the Compliance Officer shall establish a process for identifying the occurrence of any default, event of acceleration, termination event, modification of terms, or other similar events under the terms of any Financial Obligation, the occurrence of any of which reflect financial difficulties of the City; and
- h. the Compliance Officer shall annually review these Policies and Procedures with the remainder of the Compliance Team, make any modifications on an internal document retained by the Compliance Officer and available to any “participating underwriter” (as defined in the Rule), if requested, and on the basis of this annual review (to the extent determined to be necessary or desirable), seek additional training for herself or himself, as well as other members of the City’s internal staff identified by the Compliance Officer to assist with the City’s satisfaction of the terms and provisions of the Undertaking.



**AGENDA ITEM:** Consent Agenda  
**SUBMITTED BY:** Laura Calcote, City Secretary  
**DATE SUBMITTED:** April 15, 2019  
**MEETING DATE:** April 18, 2019

# AGENDA FORM

## ITEM DESCRIPTION/SUMMARY

- A. Approval of minutes from the Regular City Council Meeting held March 21, 2019.
- B. Approval of minutes from the Regular City Council Meeting held April 4, 2019.

## REQUESTED ACTION

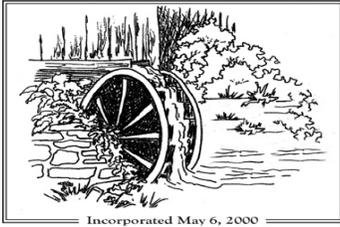
- Motion
- Discussion
- Ordinance
- Resolution
- Other

## FINANCIAL

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

## STAFF RECOMMENDATION

Approval of Items A and B



# 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, MARCH 21, 2019 – 5:30 P.M.**

## **MINUTES**

### **CALL TO ORDER**

Mayor Susan Jaggars called the meeting to order at 5:34 p.m.

### **CALL OF ROLL**

Council Members Present:

Susan Jaggars	Mayor
Mike McCullough	Place One
Craig Fore	Place Two
Allison Davis	Place Three
Gary Barchfeld	Place Four
Erik Wollam	Place Five

City Staff Present:

Shawn Cox	City Administrator
Laura Calcote	City Secretary
Rebecca Manning	Parks Director

### **INVOCATION**

Council Member Gary Barchfeld gave the invocation.

### **PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG**

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

***(Motion to move Item No. 6 – Executive Session to Item No. 5 on the agenda was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (5-0)).***

### **EXECUTIVE SESSION**

The City Council adjourned into Executive Session at 5:38 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 Aqua Texas contract.
- B. Section 551.071 (Consultation with Attorney) to receive legal advice regarding the disannexation of Sabino Ranch.

**OPEN SESSION**

Regular Session reconvened at 6:35 p.m. Mayor Susan Jagers stated possible action on these items would be considered after Citizens Communications. Any and all action was taken after Citizens Communications.

A. Discuss and consider possible action to authorize the City of Wimberley to execute an agreement with Aqua Texas.

**Motion to postpone this item until the next City Council meeting was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (5-0).**

B. Discussion and possible action resulting from Executive Session.

There was lengthy discussion regarding the disannexation of Sabino Ranch. It was noted the ordinance for the disannexation was provided in Executive Session, and not before the meeting for review. Council Member Gary Barchfeld provided a history of the property and read aloud the state statute allowing for disannexation. Furthermore, the ordinance language was reviewed by Council members during the discussion. Council Member Craig Fore stated he had concerns about removing the property from the City Limits, which might set a precedence for other property owners to petition the City to do the same. He noted his job was to protect the City. Council Member Allison Davis voiced her concerns about removing nearly 100 acres from the middle of the City and stated the county’s restrictions on development were less stringent than the City’s, which could lead to unmanaged growth in the future on the property. She questioned Council’s right to bargain away their legislative authority by approving the disannexation. Council Member Mike McCullough noted he was in favor of the disannexation request, and Council Member Erik Wollam had no comment.

**Motion to accept the ordinance allowing for the disannexation of Sabino Ranch was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Mike McCullough. Motion carried as follows (3-2-1):**

<b>Mike McCullough</b>	<b>Aye</b>
<b>Gary Barchfeld</b>	<b>Aye</b>
<b>Susan Jagers</b>	<b>Aye</b>
<b>Craig Fore</b>	<b>Nay</b>
<b>Allison Davis</b>	<b>Nay</b>
<b>Erik Wollam</b>	<b>Abstain</b>

**CITIZENS COMMUNICATIONS**

There were six citizen’s comments. They were as follows:

1. Michael Bachers addressed Council regarding the disannexation of Sabino Ranch, and the Johnson Family’s role in the move to Aqua Texas for the Central Wimberley Wastewater Project. Mr. Bachers stated there were red flags involved in the actions and contended quid pro quo was occurring with the disannexation of the property.
2. M.F. Johnson acknowledged City Council members for their thankless job.
3. Scott Johnson thanked City Council for hearing the family’s disannexation request, and stated the Johnsons would not be leaving Wimberley, even if the disannexation was approved. Mr. Johnson highlighted the family’s history in the Wimberley community, and noted their continued contribution to the Wimberley Valley.

4. Susan Neeney, Friends of Blue Hole's Executive Director, spoke regarding the Texas Parks and Wildlife Department's (TPWD) response letter from January 2019 pertaining to the proposed change in scope to the Central Wimberley Wastewater Project. Ms. Neeney advised on the endangered species mentioned in the letter, including the Golden-cheeked warbler that had recently been sighted in Blue Hole Regional Park, and how the Council needed to heed the concerns of the TPWD when considering the project area and how it may negatively impact the bird's habitat.

5. Christine Middleton addressed Council regarding riparian areas and advocated for more education surrounding the topic. Ms. Middleton also stated the Cypress Creek Nature Preserve's riparian area could be utilized as an educational resource and urged City Council to keep the trail open to the public.

6. Martha Knies asked questions relating to the Cypress Creek Nature Preserve Trail, including who was interested in barrier fencing for the area, what was the recommendation for fencing, where would the proposed fencing take place and why fence the trail. Ms. Knies also questioned the timing of the issue being brought before Council, and asked Council to wait to vote until a proposed master plan had been presented.

#### **CONSENT AGENDA**

**Motion to approve the Consent Agenda was made by Council Member Erik Wollam.**

**Motion was seconded by Council Member Mike McCullough. Motion carried unanimously (5-0).**

A. Approval of minutes from the Special Joint City Council and Wastewater Ad Hoc Advisory Committee Meeting held February 28, 2019.

B. Approval of minutes from the Regular City Council Meeting held March 7, 2019.

C. Approval of January 2019 Financial Statements for the City of Wimberley.

#### **CITY ADMINISTRATOR REPORT**

City Administrator Shawn Cox updated Council regarding the status of the Central Wimberley Wastewater Project. Mr. Cox noted the Texas Water Development Board was close to finalizing draft statements for the requested change in scope for the Project. Additionally, Mr. Cox advised sales tax for Fiscal Year 2019 was currently higher than the same time period in 2018. Lastly, Mr. Cox highlighted completed and on-going road projects, including the completion of the crosswalks and speed humps at Carney Lane and the grate improvement at the Hidden Valley Bridge.

#### **PUBLIC HEARING AND POSSIBLE ACTION**

Hold a public hearing and consider approval of the first reading regarding an ordinance amending Chapter 9 (Planning & Development Regulations) Article 9.03 (Zoning), Division 3, (District Regulations) Section 9.03.098 (Planned Development District; WPDD) 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. *(Place Two Council Member Craig Fore)*

City Administrator Shawn Cox presented the proposed ordinance, which would require all proposed WPDD amendments to go through the public hearing process versus the potential of

City staff approval. The Planning and Zoning Commission had recommended this ordinance amendment by a unanimous vote at their March 14<sup>th</sup> meeting.

Mayor Susan Jaggars opened the public hearing at 7:27 p.m.

There were no citizen's comments.

Mayor Susan Jaggars closed the public hearing at 7:27 p.m.

There was discussion among Council members regarding the proposed change and the approval process for WPDDs. Council Member Allison Davis noted the expanded oversight on private property owners by allowing for the change.

**Motion to approve the first reading regarding an ordinance amending Chapter 9 (Planning & Development Regulations) Article 9.03 (Zoning), Division 3, (District Regulations) Section 9.03.098 (Planned Development District; WPDD) 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 (5-0).**

### **DISCUSSION AND POSSIBLE ACTION**

A. Discuss and consider possible action regarding the appointment of a consensus member to the Board of Adjustment. *(Place Four Council Member Gary Barchfeld)*

Council Member Gary Barchfeld nominated Michael Crowley as the consensus member to the Board of Adjustment.

**Motion to appoint Michael (Mike) Crowley as the consensus member to the Board of Adjustment was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Mike McCullough. Motion carried unanimously (5-0).**

B. Discuss and consider possible action regarding a request to operate a food service trailer at 9595 RR 12 in Wimberley, Texas. *(Randy Engemoen/Rondooley's, Applicant)*

Rhonda Matthews addressed Council regarding the request to move the Rondooley's food truck to the junction of Ranch Road 12 and FM 32 behind Milagros.

**Motion to approve the request to operate a food service trailer at 9595 RR 12 in Wimberley, Texas was made by Council Member Allison Davis. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (5-0).**

C. Discuss and consider possible action regarding an ordinance adding Article 4.12, Landscaping and Tree Preservation to Chapter 4, Building Regulations of the City of Wimberly Code of Ordinances. *(City Administrator Shawn Cox)*

There was lengthy discussion among Council members and staff regarding a proposed tree ordinance, which had been discussed at previous meetings. It was suggested that instead of an ordinance, a development plan should be implemented for tree preservation. Council Member Craig Fore noted a monetary value could not be placed on trees. Council Member Allison Davis stated tree preservation, especially for heritage trees, is needed and should be considered when permitting new projects. Council agreed tree protection and preservation within the City was important. No action was taken on this item, and staff requested input or feedback on the proposed ordinance before the April 4<sup>th</sup> meeting.

**Motion to take a 5-minute recess at 7:54 p.m. was made by Council Member Allison Davis. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (5-0).**

*Council Member Allison Davis left the meeting at 7:54 p.m.*

Regular Session reconvened at 8:04 p.m.

- D. Discuss and consider possible action approving the proposed route for the 2019 Wimberley Fourth of July Parade. *(City Administrator Shawn Cox)*  
**Motion to approve the proposed route for the 2019 Wimberley Fourth of July Parade was made by Council Member Erik Wollam. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (4-0).**
- E. Discuss and consider possible action regarding continued legal expenditure related to the development of the short-term rental (STR) conditional use permit (CUP) ordinance. *(City Administrator Shawn Cox)*  
City Administrator Shawn Cox advised the City had spent roughly \$4,800 on the short-term rental ordinance since November 2018 and requested Council's approval before expending further funds on the topic. There was discussion among Council members and Mr. Cox regarding the long process of drafting and reviewing the ordinance and the short-term rental bills that had been introduced during the on-going 86<sup>th</sup> Texas Legislative Session. There was also discussion on the delay from the Planning and Zoning Commission to make a recommendation to City Council regarding the ordinance.  
**Motion to continue legal counsel funding for the short-term rental ordinance was made by Council Member Erik Wollam. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).**
- F. Discuss and consider possible action regarding short-term rentals and conditional use permits. *(Place Four Council Member Gary Barchfeld)*  
Council Member Gary Barchfeld continued the discussion on short-term rentals and condition use permit topic. Mr. Barchfeld stated that the matter had been drug out long enough and would like to see progress made by completing the short-term rental ordinance and the Planning and Zoning Commission to make a recommendation to Council regarding the ordinance. There was discussion on the timeline to complete each task.  
**Motion to instruct City staff to move forward as expeditiously, effectively and fairly as possible to complete the short-term rental ordinance and address related issues was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).**
- G. Discuss and reconsider possible action regarding case ZA-19-001, an application to change the zoning from Single-Family Residential 2 (R-2) to Commercial-Low Impact (C-1) for property located at 13301 Ranch Road 12, Wimberley, Hays County, Texas; and providing for the following: delineation on zoning map; findings of fact; severability; effective date and proper notice and meeting. *(Mystic Hill, LLC, Sibyl Burrows, Applicant)*  
There was one citizen comment. Applicant Sibyl Burrows addressed Council regarding her zoning change request. Ms. Burrows noted the property was small and not much development could occur because of such. City Council members discussed the property and the potential issues with the zoning change from residential to commercial, including part of the property being in located a floodplain area. There was discussion among the applicant and Council on the type of zoning to consider and contended C-1 might not be appropriate for what the applicant was trying to accomplish.

**Motion to postpone the item until the applicant further reviewed the requested zoning change was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Mike McCullough. Motion carried unanimously (4-0).**

- H. Discuss and consider possible action to approve the termination of the Financial Assistance Award Agreement with the Economic Development Administration (EDA) and accept reimbursement from the EDA in the amount of \$177,548.31. *(Place Four Council Member Gary Barchfeld)*

**Motion to approve the termination of the Financial Assistance Award Agreement with the Economic Development Administration (EDA) and accept reimbursement in the amount of \$177,548.31 was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).**

- I. Discuss and consider possible action to fund a barrier fencing for the Cypress Creek Nature Preserve. *(Mayor Susan Jagers)*

There was one citizen comment. Merry Gibson voiced her support for the barrier fencing at the Cypress Creek Nature Preserve and highlighted certain aspects from the Conservation Easement allowing for fencing and a gate in the area.

Mayor Susan Jagers requested funding not to exceed \$8,000 for a barrier fence at the Preserve to aid in trespassing offenses. Council members were not in support and opted to wait until the Wimberley Valley Watershed Association had a chance to present a draft master plan for the Preserve at an upcoming meeting in April.

No action was taken on this item.

### **CITY COUNCIL REPORTS**

A. Announcements – None.

B. Future agenda items – Council Member Craig Fore stated he would like to discuss the topic of impervious cover at a future meeting.

### **ADJOURNMENT**

**Motion to adjourn the meeting at 9:00 p.m. was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).**

### **RECORDED BY:**

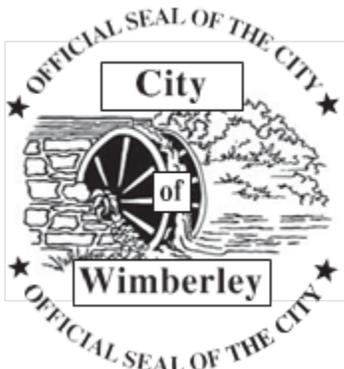
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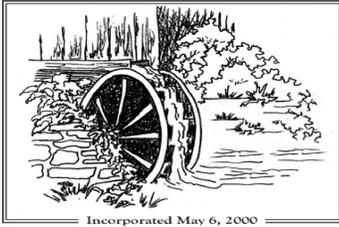
**Laura J. Calcote, City Secretary**

### **APPROVED BY:**

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**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, APRIL 4, 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
	Erik Wollam	Place Five
Council Members Absent:	Allison Davis	Place Three
City Staff Present:	Shawn Cox	City Administrator
	Laura Calcote	City Secretary
	Charlie Zech	City Attorney
	Rebecca Manning	Parks Director

**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.

**PROCLAMATIONS**

Mayor Susan Jagers read aloud the two proclamations and presented them to several representatives from the Hays-Caldwell Women’s Center.

A. Proclamation of the City of Wimberley, Texas proclaiming April 2019 as Child Abuse Prevention and Awareness Month. *(Hays-Caldwell Women’s Center)*

**Motion to support the Proclamation was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).**

- B. Proclamation of the City of Wimberley, Texas proclaiming April 2019 as Sexual Assault Awareness and Prevention Month. (*Hays-Caldwell Women's Center*)  
**Motion to support the Proclamation was made by Council Member Craig Fore. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (4-0).**

### **CITIZENS COMMUNICATIONS**

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

1. Steve Thurber addressed Council regarding the Mayor's Corner article published in the Wimberley View on April 4<sup>th</sup>. Mr. Thurber refuted statements made in the article concerning the Central Wimberley Wastewater Project, and noted the system would be working and online today, if a change in scope had not been requested. Furthermore, the Project would not be completed in 90 days, as the article stated.
2. Andrew Weber spoke regarding the Texas Water Development Board's recent approval of the change in scope for the Central Wimberley Wastewater Project, along with the four conditions that must be met to move forward with the Project. Mr. Weber stated a property/ad valorem tax would be required and the bonds must be changed to from revenue to refund exchanging bonds for the change to be fulfilled. Additionally, Mr. Weber questioned the move to Aqua Texas from the City's original plan.
3. Phil Van Ostrand thanked City Council for their hard work and dedication. Mr. Van Ostrand commented on the Texas Water Development Board's recent approval of the change in scope for the Central Wimberley Wastewater Project, and the issues raised by the Board for the change, including sightings of the Golden-cheeked warbler in Blue Hole Regional Park, which had previously been addressed. He suggested that Park activity should be reduced in general in order not to disturb the birds.

### **PRESENTATIONS**

- A. Presentation by the Wastewater Ad Hoc Advisory Committee regarding the study of the Wimberley Wastewater Collection System. (*Committee Chair Kirby Atwell*)  
Wastewater Ad Hoc Committee Chairperson Kirby Atwell presented information pertaining to the Central Wimberley Wastewater Project, including the number of users, living unit equivalents (LUEs), potential billing systems and a comparison of a move to Aqua Texas versus the City's original plan. Mr. Atwell addressed potential issues with the change in scope to Aqua Texas, noting reserve funds, the cost of drilling under Cypress Creek, legal expenses, environmental concerns and a bond rate increase. There was discussion between members of the Committee, Mr. Atwell, Chris Oddo and Maridel Martinez, and City Council regarding the information presented.
- B. Presentation and update regarding the Cypress Creek Nature Preserve Master Plan. (*Wimberley Valley Watershed Association Representative Daniel Alvarado*)  
Daniel Alvarado of Alvarado Works addressed Council regarding the study and results of the Cypress Creek Nature Preserve to develop a Master Plan for the area. Mr. Alvarado, the Wimberley Valley Watershed Association and the City had been working together to survey the existing conditions of the area and suggest improvements for the future. There was discussion pertaining to the potential Master Plan, including proposed trail alignment, design and signage.

Mayor Susan Jagers questioned the Conservation Easement and public access to the Preserve, and suggested possibly terminating the Easement. A public meeting would be held on the topic at the Wimberley Community Center on April 11, 2019 before a draft of the Master Plan was presented to City Council at a future meeting.

### **EXECUTIVE SESSION**

City Council adjourned into Executive Session at 6:35 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 an Aqua Texas contract.
- B. Section 551.071 (Consultation with Attorney) to receive legal advice regarding the issuance of City of Wimberley Series 2019 bonds.
- C. Section 551.071 (Consultation with Attorney) to receive legal advice regarding litigation in Cause No. 19-0279-C; Madrone Office Park & Storage, LLC v. City of Wimberley Board of Adjustment.
- D. Section 551.071 (Consultation with Attorney) to receive legal advice about litigation in Case No. 16-2419; Risoli v. City of Wimberley and Wimberley Board of Adjustment; 207<sup>th</sup> District Court, Hays County, Texas.

### **OPEN SESSION**

Regular Session reconvened at 7:53 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 (4-0).**

Approval of Mayor Susan Jagger's appointment of Sara Dishman to the Planning and Zoning Commission.

### **CITY ADMINISTRATOR REPORT**

City Administrator Shawn Cox updated Council regarding the status of the Central Wimberley Wastewater Project, including line locations, review of the lift station submittals, repaving of Ranch Road 12 and the Texas Water Development Board's approval of the change in scope for the Project, including the four conditions that must be met. Additionally, Mr. Cox provided an update regarding the status of the short-term rental ordinance.

### **PUBLIC HEARING AND POSSIBLE ACTION**

Hold a public hearing and consider approval of the second and final reading regarding an ordinance amending Chapter 9 (Planning & Development Regulations) Article 9.03 (Zoning), Division 3, (District Regulations) Section 9.03.098 (Planned Development District; WPDD) 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. *(Place Two Council Member Craig Fore)*

City Administrator Shawn Cox noted a second public hearing was not required for the ordinance. **Motion to approve the second and final reading regarding an ordinance amending Chapter 9 (Planning & Development Regulations) Article 9.03 (Zoning), Division 3, (District Regulations) Section 9.03.098 (Planned Development District; WPDD) 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 (4-0).**

### **DISCUSSION AND POSSIBLE ACTION**

- A. Discuss and consider possible action regarding Friends of Blue Hole sponsoring a Yoga in the Park Program on the Blue Hole Swim Lawn. *(Parks Director Rebecca Manning)*  
Parks Director Rebecca Manning presented the six-week yoga series sponsored by Friends of Blue Hole, which would take place on Fridays from April 12<sup>th</sup> until May 24<sup>th</sup>, if approved by Council. The spring yoga series would be at no cost to the City.

**Motion to approve the Friends of Blue Hole sponsoring a Yoga in the Park Program on the Blue Hole Swim Lawn was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).**

- B. Discuss and consider possible action to form a committee to write a new agreement with the City of Wimberley and Friends of Blue Hole. *(Parks Director Rebecca Manning and Board Chair Mark Bursiel)*

Parks Director Rebecca Manning presented the Parks and Recreation Board's motion to form an informal committee consisting of two members of City Council, members of the Parks Board, Parks Department staff and Friends of Blue Hole to write a new agreement with the City and Friends of Blue Hole. Mrs. Manning suggested she could write a draft agreement and submit it to the Parks Board and City Council for review. There was discussion between staff and Council regarding the drafting of the agreement. Council Member Gary Barchfeld volunteered to be the City Council representative for the committee.

**Motion to create an informal committee, consisting of Council Member Gary Barchfeld, members of the Parks and Recreation Board, Parks Department staff and Friends of Blue Hole to draft a new agreement between the City of Wimberley and the Friends of Blue Hole was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Mike McCullough. Motion carried unanimously (4-0).**

- C. Discuss and consider possible action to utilize Specialized Public Finance, Inc. as financial advisors for the City of Wimberley. *(City Administrator Shawn Cox)*

**Motion to postpone this item until the next City Council meeting was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).**

- D. Discuss and consider possible action to engage Zara Environmental, LLC to conduct a GCW analysis for the Central Wimberley Wastewater Project. *(City Administrator Shawn Cox)*

There was one citizen comment. Lila McCall spoke regarding the potential Friends of Blue Hole agreement with the City, and cautioned Council to be careful with the group. Ms. McCall

also addressed the Golden-cheeked warbler issue and the associated costs to the City to conduct an analysis for the bird. Ms. McCall suggested the City consider selling Blue Hole Regional Park to Friends of Blue Hole and have them pay for the cost of the analysis.

City Administrator Shawn Cox presented Council with a cost estimate in the amount of \$9,884.00 from Zara Environmental, LLC for the Golden-cheeked warbler (GCW) habitat assessment and nest surveys in Blue Hole Regional Park. The timeline for the analysis would be within two weeks of receiving an executed contract. The GCW analysis was one of the environmental conditions set forth by the Texas Parks and Wildlife Department and the Texas Water Development Board for the approval of the change in scope to the Central Wimberley Wastewater Project.

**Motion to contract with Zara Environmental, LLC in an amount not to exceed \$9,884, plus 10 percent contingency, to conduct a Golden-cheeked warbler analysis for the Central Wimberley Wastewater Project was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).**

- E. Discuss and consider possible action to approve Ordinance No. 2019-07, disannexation of approximately 22 acres contiguous to the City Limits, generally described as 100 Madrone Trail. *(City Administrator Shawn Cox)*

Rick Millinor addressed Council regarding his request to disannex from the City limits, as had been granted to Sabino Ranch at the previous City Council meeting. There was discussion among Council members pertaining to the request, the property's location and state disannexation regulations and laws.

**Motion to approve Ordinance No. 2019-07, disannexing approximately 22 acres contiguous to the City Limits, generally described as 100 Madrone Trail was made by Council Member Mike McCullough. Motion was seconded by Council Member Erik Wollam. Motion carried as follows (3-2):**

<b>Mike McCullough</b>	<b>Aye</b>
<b>Erik Wollam</b>	<b>Aye</b>
<b>Susan Jagers</b>	<b>Aye</b>
<b>Craig Fore</b>	<b>Nay</b>
<b>Gary Barchfeld</b>	<b>Nay</b>

### **CITY COUNCIL REPORTS**

A. Announcements – None.

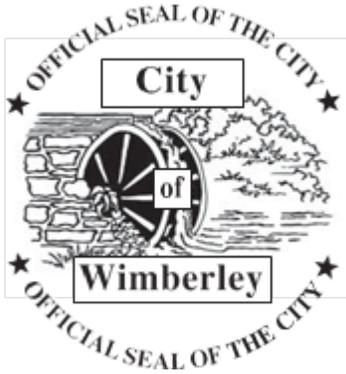
B. Future agenda items – None.

### **ADJOURNMENT**

**Motion to adjourn the meeting at 8:43 p.m. was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Mike McCullough. Motion carried unanimously (4-0).**

**RECORDED BY:**

**Laura J. Calcote, City Secretary**



**APPROVED BY:**

**Susan Jagers, Mayor**

DRAFT



**AGENDA ITEM:** City Administrator's Report  
**SUBMITTED BY:** Shawn Cox, City Administrator  
**DATE SUBMITTED:** April 15, 2019  
**MEETING DATE:** April 18, 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, updates will be provided on sales tax revenues and signage at the Wimberley Community Center.

### REQUESTED ACTION

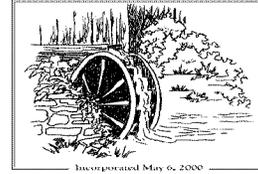
- Motion
- Discussion
- Ordinance
- Resolution
- Other

### 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

# Report for CUP-19-001



**Summary:** An application for a Conditional Use Permit to allow for the operation of a Vacation Rental at 13301 RR 12

**Applicant Information:**

**Applicant:** Mystic Hill, LLC/Sibyl Burrows  
970 Verde Vista Drive  
Wimberley, TX 78676

**Property Owner:** Mystic Hill, LLC/Sibyl Burrows

**Subject Property:**

**Legal Description:** 3.295 acres out of the Amasa Turner Survey, Abstract No. 461  
**Location:** 13301 RR 12  
**Existing Use of Property:** Residential  
**Existing Zoning:** Single-Family Residential 2 (R-2)  
**Proposed Use of Property:** Vacation Rental  
**Proposed Zoning:** CUP  
**Planning Area:** III  
**Overlay District:** Protected Waterway

**Surroundings:**

**Frontage On:** Ranch Road 12

**Area Zoning and Land Use Pattern:**

	<b>Current Zoning</b>	<b>Existing Land Use</b>
<b>N of Property</b>	RA, C1	Residential, Commercial
<b>S of Property</b>	C1	Residential
<b>E of Property</b>	R2	Residential
<b>W of Property</b>	RA	Residential

**Legal Notice**

**200' Letters:** 03/06/2019  
**Published:** 03/14/2019  
**Sign Placement:** 03/12/2019  
**Responses:** none

**Comments:**

The applicant, Mystic Hill, LLC, has requested a Conditional Use Permit (CUP) to operate a Vacation Rental for property located at 13301 Ranch Road 12.

The proposed Vacation Rental consists of two (2) bedrooms & one (1) bathroom. The City Sanitarian has reviewed this request and stated a maximum occupancy of four (4) people per septic regulations.

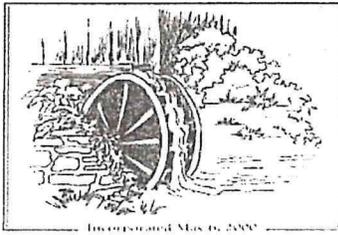
City staff is recommending the following conditions be made part of the requested CUP, should the City Council recommend approval:

1. No organized outside activities shall be allowed on the property after 10 p.m.
2. No guests, other than paying guests, shall be allowed on the property at any time, unless approved in advanced, in writing, by the owner or their agent.
3. The grounds outside the residence shall remain free of litter and trash at all times.
4. A fire escape plan, identifying fire exits shall be developed and graphically displayed in each guest room.
5. One (1) smoke alarm shall be provided in each guest room, along with a fire extinguisher visible and accessible to guests.
6. A valid taxpayer number for reporting any Texas/City tax shall be provided to the City along with a copy of the completed City of Wimberley/State of Texas Hotel Occupancy Tax Questionnaire, no later than thirty (30) days of such change.
7. The City shall be notified of any change in ownership of the subject property within thirty (30) days of such change.
8. A copy of the requirements set forth in the CUP shall be made available to all guests.
9. The subject property owner shall provide the City and property owners within two hundred (200) feet of the subject property, with the current names and contact information (including telephone numbers and e-mail address) for the local responsible party for the subject property. The local contact shall be able to respond to any incident within thirty (30) minutes of a call and shall be authorized to make decisions regarding tenants at the property. If the name or contact information for the local contact changes, then the property owners shall notify the City and property owners within two hundred (200) feet of the subject property, with the current name and contact information.
10. Unruly gatherings are prohibited. Unruly gathering means a gathering of more than one (1) person which is conducted on premises within the City and which, by reason of the conduct of those persons in attendance, results in the occurrence of one (1) or more of the following conditions or events on public or private property: the destruction of property; obstruction of roadways, driveways, or public ways by crowds or vehicles; excessive noise; disturbances, brawls, fights or quarrels; public urination or defecation; or indecent or obscene conduct or exposure.
11. The property shall be subject to inspection at any time by designated City representatives if compliance is in question, with proper notice provided if feasible.
12. The CUP shall terminate and be considered abandoned if and when there is evidence of no rental activity, based in part of the State/City Hotel Occupancy Tax Reports, for a period of nine (9) months. The burden shall be on the property owner to prove that use of the property has been in continuous use.
13. A property address sign is required and shall be installed on the property no more than ten (10) feet from the street, with the address numbers at least four (4) inches high and two (2) inches wide.
14. One (1) freestanding business sign shall be allowed, but not required, on the property. Such sign shall not exceed four (4) square feet in area and shall be of traditional Hill Country design and color.
15. The maximum occupancy for the property shall be four (4) people.

16. The owner of the property or the owner's agent shall not advertise a maximum occupancy for the vacation rental that is greater than the maximum occupancy established by the City based on septic capacity.
17. The owner of the property or the owner's agent, which may be an agency, shall provide each renter a property map for the vacation rental property that shows the boundaries of the property and advises that trespassing on adjacent property is prohibited.
18. The owner of the subject property shall comply with any and all applicable operating permit requirements that may be established by the City.

There have been no responses for or against to date.

At the Planning & Zoning meeting on April 11<sup>th</sup>, the Commission recommended approval of the application 6-0-1.



# City of Wimberley

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

Phone (512) 847-0025 Fax (512) 847-0422

[www.cityofwimberley.com](http://www.cityofwimberley.com)

NOV 21 2018

## CONDITIONAL USE PERMIT APPLICATION

OFFICE USE CUP 19 - 001 Date: 1-3-2019 Staff Review SIF  
 P&Z Hearing: 2-14-2019 Council Hearing: 2-21-2019 Fees Paid:

Applicant: Sibyl Burrows  
 Mailing address: 970 Verde Vista Dr. City: Wimberley State: TX Zip: 78676  
 Phone: [REDACTED] Email: [REDACTED]  
 Property Owner: SAME Mystic Hill, LLC  
 Mailing address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Project Site Address: 13301 R.R. 12  
 Legal description: 3.295 acres out of the Amasa Turner Survey, Abs. No. 461  
 Total Acreage or Square Footage: 3.295 Deed recorded in: \_\_\_\_\_  
 Hays CAD Parcel ID R 18443 & R 18495 Planning Area: III Zoning: R-2  
 Is property located in an overlay district?  Yes  No If Yes, type: Protected Waterway  
 Specific Conditional Use Requested: VACATION RENTAL  
 Applicant understands that the purpose of the Conditional Use Permit (CUP) process is to allow certain uses which are not specific; permitted uses within a zoning district. To be considered for a CUP, the requested use must be listed under "Conditional Uses" within the applicable zoning district.

Utilities  
 Electric Provider: PEC  
 Water provider or Private Well: city  
 Wastewater Service or Septic Permit No. \_\_\_\_\_  
 \*If you have an On-Site Sewage Facility (OSSF) you can submit an open records request for your permit information if you do not have it.

## SUBMITTAL CHECKLIST

- Complete "Conditional Use Permit Application"
- Metes and bounds description and/or survey exhibit
- Site Plan drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size height, construction materials, and locations of buildings and the uses to be permitted; location and construction of signs; means of ingress and egress to public streets; the type of visual screening such as walls, plantings and fences
- Deed(s)
- Payment of application fee
- Agent authorization to represent property owner if applicable

### MY REQUEST IS BASED ON THE FOLLOWING:

- The use is harmonious and compatible with surrounding existing uses or proposed uses, and does not adversely affect an adjoining site than would a permitted use;
- The use requested by the applicant is set forth as a conditional use in the base district;
- The nature of the use is reasonable;
- The conditional use does not adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area;
- The conditional use does not adversely affect an adjacent property by its resulting traffic through the location, or its lighting, or its type of sign; and
- That any additional conditions specified, if any, ensure that the intent and purposes of the base district are being upheld.

### SUBMITTAL VERIFICATION

My signature attests to the fact that the attached application package is complete and accurate to the best of my knowledge. I understand that City review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided by me, my firm, or agent, may delay the review of the Application. I authorize City of Wimberley Staff to visit and inspect the property for which this application is being submitted. I agree to attend or have a representative attend the Planning & Zoning Commission and City Council meetings. I have checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning actions to ensure that there are no restrictions on the subject property and understand that the City zoning action does not relieve any obligation of these restrictions.

Date: 11-20-18

Applicant's Signature: *Sibyl C. Burrows*

**LIST OF CONDITIONS THAT MAY BE INCLUDED IN A  
BED AND BREAKFAST/VACATION RENTAL CUP**

Owner: Mystic Hill LLC Sibyl Burrows

LOCATION OF PROPERTY: 13301 RR12

LEGAL DESCRIPTION: 3.295 acres out of the Amasa Turner Svy, Abs. No. 461

PLANNING AREA: III

PRESENT ZONING: Single-Family Residential 2 (R-2)

EXISTING USE: Residential

USE TO BE GRANTED: Bed & Breakfast OR  Vacation Rental

**NEW CONSTRUCTION:** (Describe existing construction) If new construction is contemplated: Describe new construction. The architecture and façade of all new construction will be traditional “Hill Country” design and harmonious with those of adjacent uses. No construction shall commence prior to compliance with all applicable ordinances, laws, rules and regulations.

**COMPATIBILITY TO NEARBY AREAS:** The facilities on the property will at all times be harmonious and compatible with surrounding uses

**OFF-STREET PARKING:** All parking will be off-street. 2 Off-street parking spaces will be provided for off-street guest parking, which will be adequate for a maximum occupancy of 4 guests. Parking will be in these spaces only.

**SIGNAGE:** All signage will be of traditional “Hill Country” design and will comply with the City Sign Ordinance.

**NOISE AND LIGHTING:** Exterior lighting to be only landscape lighting. All noise audible from outside, and all light visible from outside the property shall be maintained at low levels appropriate to a single family neighborhood. No large parties are permitted.

**NUMBER OF BEDROOMS:** 2

**PROPOSED MAXIMUM OCCUPANCY:** 4 guests. ✓

**OCCUPANT REGULATIONS AND GUIDELINES:** Guest Guidelines are attached hereto and made a part of this Conditional Use Permit. The bed and breakfast lodging facility shall be operated in accordance with the guidelines. These guidelines shall be furnished to all guests.

**WASTEWATER SYSTEM:** The wastewater treatment system (to be designed and constructed) will at all times be adequate for the maximum occupancy.

**WATERFRONT USAGE:** (Applicable if guests have water access) Guests may only use the Blanco River/Creek in the area directly adjacent to the bed and breakfast lodging facility. Guests may not use the River/Creek in front of other properties or enter upon any property which is not part of the bed and breakfast facility for the purpose of entering or exiting the water or for any other reason.

**PROPERTY MANAGEMENT:** Owner will provide guests and close-by neighbors with owner's telephone number to assure Owner's immediate knowledge of any concerns that may arise. (If not owner occupied) Owner agrees to retain under contract a responsible local management company at all times the property is used as a non-owner occupied bed and breakfast lodging. The management company shall advise guests of the applicable conditions contained herein, receive and pass on to owner any complaints received and at owner's direction act upon such complaints. (If Owner occupied) The property shall be the owner's principal place of residence and the owner shall actively supervise and manage the property at all times that it is used as a bed and breakfast facility.

**MISCELLANEOUS:** Owner agrees to maintain the property in a manner conducive to the health and safety of the guests and the neighborhood. All trash and garbage will be placed in provided receptacles which shall not be visible from the street except on pick-up day. No trash bags shall be left out in the open. The exterior of the facility and the landscaping, including lawns, will be maintained in good condition at all times.

**REVOCAATION:** The cup may be revoked by the City Council upon recommendation of the planning and Zoning Commission in the event of the violation of any of the conditions contained therein.

**OWNER COMPLIANCE:** Owners agree to comply with all City of Wimberley Ordinances, and all state, county and City laws, rules and regulations.

ACCEPTED AND AGREED TO:

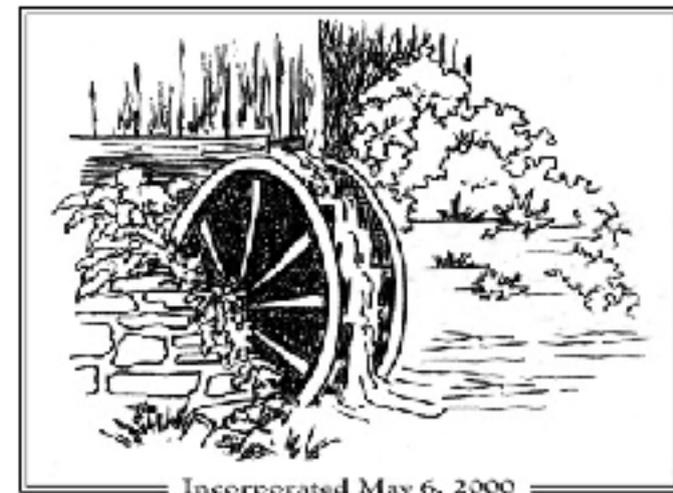
11-21-18  
DATE

Lily A. Bucrow  
OWNER

\_\_\_\_\_  
DATE

\_\_\_\_\_  
OWNER

# CUP-19-001 ~ 13301 Ranch Road 12

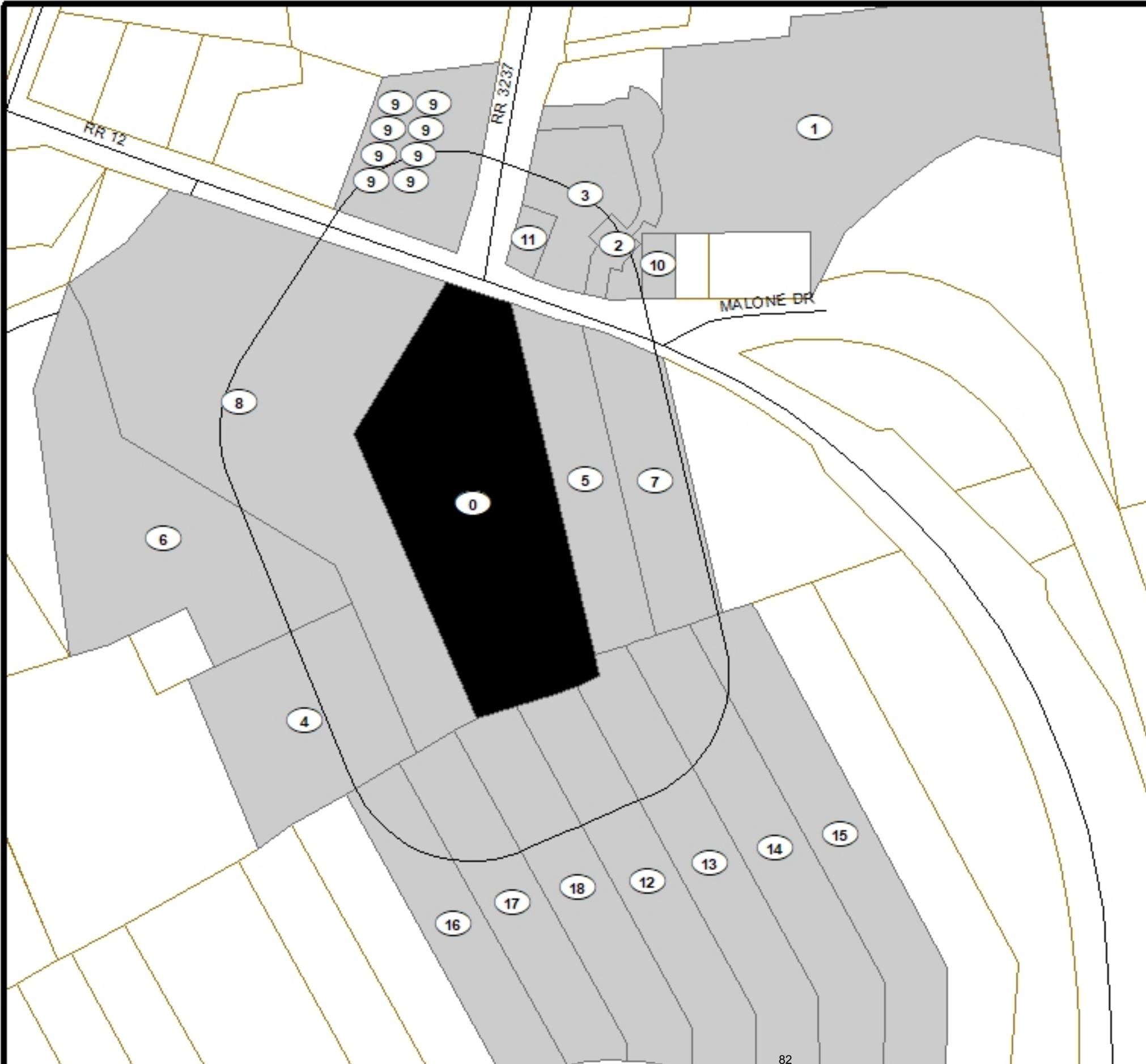
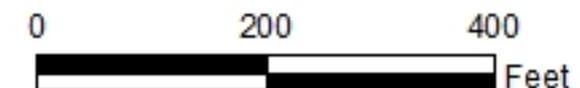


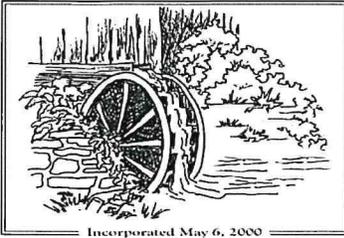
Incorporated May 6, 2000

## 200' NOTIFICATION

### Legend

- 200' Buffer
- ID. Owner**
- 0. MYSTIC HILL LLC
- 1. KKP 3237 LLC
- 2. RANDALL MORRIS & COMPANY LTD
- 3. RANDALL MORRIS & COMPANY LTD
- 4. RIO BONITO LLC
- 5. FAIRLAWN 13201 LLC
- 6. RIO BONITO LLC
- 7. MORGAN, JOHN KENNETH
- 8. MATTHEW & NATALIE MEEKS
- 9. MULTIPLE OWNERS
- 10. RANDALL MORRIS & COMPANY LTD
- 11. RANDALL MORRIS & COMPANY LTD
- 12. BLANCO RIVER FAMILY LLC
- 13. SOUTH RIVER PROPERTIES LTD
- 14. SOUTH RIVER PROPERTIES LTD
- 15. V C D CENTURION DISCRETIONARY TRUST
- 16. DOWD MATTHEW
- 17. DOWD MATTHEW
- 18. WIMBERLEY REAL ESTATE CO





# City of Wimberley

221 Stillwater (P.O. Box 2027), Wimberley, Texas 78676  
Phone: 512-847-0025 Fax: 512-847-0422 Web: [cityofwimberley.com](http://cityofwimberley.com)

March 5, 2019

## NOTICE OF PUBLIC HEARING

**Re: File No. CUP-19-001**

13301 Ranch Road 12

A request for a Conditional Use Permit (CUP) to allow the operation of a Vacation Rental

Dear Property Owner:

You are receiving this letter because you own property within 200 feet of the above-referenced location.

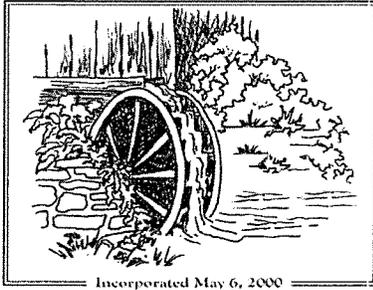
The applicant, Sibyl Burrows, Mystic Hill, LLC, has requested a Conditional Use Permit (CUP) to operate a Vacation Rental at 13301 RR 12. The City of Wimberley Planning & Zoning Commission will consider this request at a public hearing on **Thursday, April 11, 2019, at 6:00 p.m.** in the Wimberley City Hall, 221 Stillwater. Upon a recommendation from the Commission, City Council will hold a public hearing to consider the same request on **Thursday, April 18, 2019, at 5:30 p.m.**

Because the granting of this request may affect your property, you are encouraged to participate in the zoning process. The public will be given an opportunity to speak during the hearing. If you wish to comment but are unable to attend, written comments may be submitted prior to the meeting.

Additional information regarding the proposed request is available for public review at City Hall during normal business hours. Should you have questions, please feel free to email or contact me at 512-847-0025.

Thank you,

Sandy I. Floyd, C.F.M.  
Planning & Development Coordinator  
GIS Analyst  
[sfloyd@cityofwimberley.com](mailto:sfloyd@cityofwimberley.com)



# City of Wimberley

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

## NOTICE BY SIGN POSTING

DATE: March 12, 2019

ZONING NO: CUP-19-001

APPLICANT: Mystic Hill, LLC  
Sibyl Burrows

TO: CODE ENFORCEMENT/PUBLIC WORKS

Please place a Proposed Zoning Sign on the following property:

Project Site Address: 13301 Ranch Road 12

John Provost  
Public Works/Code Enforcement

City of Wimberley

Note: The above referenced sign was placed on the subject property on

3/12/2019

  
Signature

# The Wimberley View CLASSIFIED



P.O. Box 49 Wimberley, Texas 78676 512

### Public Notice

#### NOTICE OF PUBLIC HEARING (Conditional Use Permit)

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, April 11, 2019, at 6:00 p.m.** to consider the following: **CUP-19-001**— an application for a Conditional Use Permit (CUP) to allow the operation of a vacation rental at 13301 RR 12. Upon recommendation of the Planning & Zoning Commission, the City Council will also hold a public hearing on **Thursday, April 18, 2019, at 5:30 p.m.** at City Hall. Comments on this request from any member of the public may be presented in person at City Hall, by mail (PO Box 2027), or by email ([sfloyd@cityofwimberley.com](mailto: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, 221 Stillwater, Wimberley, Texas

#### NOTICE OF PUBLIC HEARING (Request for Variance/Waiver)

Notice is hereby given that the Board of Adjustment of the City of Wimberley will hold a public hearing at the Wimberley City Hall on **Monday, March 25, 2019 at 6:00 p.m.** to consider the following: BA-19-002 — a request for a variance from the City of Wimberley code requirements to allow an encroachment into the dominant street setback and interior side yard setback for a certain property located at 22 La Toya Trail, Wimberley, Texas. Comments on this request from any member of the public may be presented in person at City Hall, by mail (PO Box 2027), or by email ([sfloyd@cityofwimberley.com](mailto:sfloyd@cityofwimberley.com)) prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at the City of Wimberley City Hall, 221 Stillwater, Wimberley, Texas.

#### NOTICE OF APPLICATION TO SUBDIVIDE

An application has been filed with HAYS

### General Help Wanted

Requirements:  
 • Must have a strong work ethic  
 • Must have customer interfacing skills  
 • Must be able to prioritize tasks  
 • Must know how to hustle and "turn up the heat" when busy  
 • Must understand product quality  
 Call Misty's Burgers  
 512-842-3363

#### WCC IS NOW HIRING

The WCC has an immediate opening for a Part Time Facility Maintenance Person. For more information please refer to the City of Wimberley website:  
[www.cityofwimberley.com](http://www.cityofwimberley.com)



### General Help Wanted

**WAREHOUSE PERSON NEEDED;** receiving, stocking, picking jobs; starting pay \$12/hr plus benefits; located in Dripping Springs; Contact Joe: 512-801-2008

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

**RANCH HAND NEEDED**  
 mowing, some chain sawing, ect. \$16 an hour. 979-240-4976



### General Help Wanted

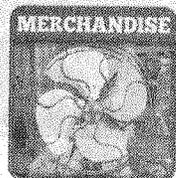
**PART TIME CARE-GIVER WANTED**  
 73 year old lady needs part-time caregiver for in home care. Must be able to drive to Dr. appointments. \$20/hour. 4 hours daily, Tues - Sat. Call Ms. Hill at 512-722-3664

**MAINTENANCE MAN NEEDED**  
 at RV park. Must mow lawns, do carpentry work, paint, etc. We can provide living accommodations. 512-847-1960

#### ADMINISTRATIVE ASSISTANT POSITION

The City of Woodcreek is accepting applications for an administrative assistant. Applicant must be available to work from 10 a.m. to 4 p.m. Monday through Friday. Starting wage is \$12/hour, commensurate with experience. Applications are available on the City's website: [woodcreektx.gov](http://woodcreektx.gov) and at Woodcreek City Hall, 41 Champions Circle, Woodcreek, TX 78676. Applications will be accepted until the position is filled. For more information, you may also call City Hall at (512) 847-9390.

### General Help Wanted



### Garage Sales

**COMMUNITY YARD SALE** on Saturday, March 16, 2019 from 8am-2pm at the Wimberley Community Center. Vintage items such as kerosene lamps, porcelain and glassware as well as jewelry, clothing, furniture, and many other collectibles. Baked goods and beauty items as well. Booths still available by calling 512-847-2510

**14 CREEKSIDE DR WIMBERLEY ESTATE SALE**  
 All items must go! March 16, 23 & 30. 10:00 am - 2:00 pm

**MULTI-FAMILY garage sale**  
 Fri 03/29/19 from 8a-3p & Sat 03/30/19 from 8a-2p @ 188 Marigold Ct. in Sierra West, Driftwood, TX 78619. One mile from Hays City Store off FM 150. Look for signs. Lots of great deals & willing to negotiate on most items.

### General Help Wanted

### Garage Sale

**GARAGE SALE** Saturday March 16, 8:00 - 12:00  
 79 Saddle Ridge

### Medical

**HOSPITAL FOR SALE**  
 "Medline" full basic home with remote Purchased for \$850. W \$650. Call or 512-608-

### Miscellaneous Merchandise

**NICE WASHER/DRYERS** for sale \$250/up. Refrigerators \$200/up. General Sales / Services 512-392-4

**FOR SALE**  
 White 40" wood dining with 4 chairs leaf. Has green locks. \$2 Nordic Tractor model 831.2 Great exer Like new with manual. \$72C SALE price \$150. C 361-549-4953

### General Help Wanted

### General Help Wanted

### General Help Wanted

HILL COUNTRY MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CENTERS  
**FULL TIME CSA III - Residential Positions**  
 Serving Comal or Hays County  
 Seeking positive, energetic individuals to work closely with our intellectual and developmentally disabled population. We have openings at both the Comal County and the Hays County Group Homes! Applicants must have good written and verbal communication as well as time management skills.  
 Requirements: "H.S. Diploma/GED, Valid Texas Driver's License and Current Automobile Insurance"  
 Previous Experience a plus.  
 \$10.95 per hour w/ Excellent Benefits  
 Apply online @ [www.hillcountry.org](http://www.hillcountry.org)

**Sec. 9.03.073 Single-Family Residential 2; R-2**

- (a) General purpose and description. The R-2 district is intended to provide for development of primarily detached, single-family residences on lots of not less than 20,000 square feet.
- (b) Permitted uses.
- (1) One residence, including:
    - (A) Single-family detached dwellings.
    - (2) Accessory buildings and uses, customarily incidental to the above uses and located on the same lot therewith or on a contiguous lot under the same ownership that satisfies the requirements of section 9.03.182, but not involving the conduct of a retail business except as provided herein:
      - (A) The term “accessory use” shall include customary home occupations as herein defined;
      - (B) Accessory buildings, including a private garage, shall not occupy more than 50% of the minimum required rear yard. When the accessory building is directly attached to the main building, it shall be considered an integral part of the main building. See section 9.03.182 for additional accessory use requirements;
      - (C) A detached private garage used in conjunction with the main building;
      - (D) Private open space or other private recreational amenities as part of a residential subdivision and not for commercial purposes; and
      - (E) One accessory dwelling unit.
    - (3) Swimming pool (private);
    - (4) Utilities (public); and
    - (5) Religious assembly.
- (c) Conditional uses.
- (1) Bed and breakfast lodging located only in the residential building;
  - (2) Home day care;
  - (3) Home commercial crafts or hobbies;
  - (4) Telecommunications towers, commercial antennas, and broadcast towers, subject to all applicable city regulations;
  - (5) Two-family residential (duplex);
  - (6) One secondary single-family residential building built on-site;
  - (7) One manufactured home installed on a permanent foundation, as the primary residence;
  - (8) Vacation rental; and
  - (9) Personal care home.
- (d) Development regulations.
- (1) Lot size: Minimum 20,000 square feet but less than 2 acres.
  - (2) Maximum building height (as defined in section 9.03.005):
    - (A) Primary residential building: not more than 2 stories and not more than 28 feet with flat roof (see definition) or 35 feet with pitched roof;
    - (B) Secondary residential building: Not more than 2 stories and not more than 28 feet with flat roof (see definition) or 35 feet with pitched roof;
    - (C) Accessory buildings: Not more than 18 feet and not more than one story; and
    - (D) Decks: Not more than 12 feet including a railing only or 18 feet including a roof.
  - (3) The minimum setbacks shall be the larger of the dimensions in section 9.03.184(a), table A, or the following:
    - (A) Dominant street: 40 feet;
    - (B) Secondary street: 15 feet;

- (C) Interior side yard: 10 feet; and
- (D) Rear yard: 20 feet.
- (4) Minimum floor area:
  - (A) Primary residential building: 600 square feet.
  - (5) Maximum impervious cover: 35%. Impervious cover shall be calculated as a percentage of the net site area.
  - (6) The parking and trash collection ordinances will apply.
- (e) Special requirements.
  - (1) Recreational vehicles, travel trailers, or motor homes may not be used for on-site dwelling purposes.
  - (2) Open storage is prohibited, except for materials for the resident's personal use or consumption such as firewood, gardening materials, and the like.
  - (3) Single-family homes with side entry garages where lot frontage is only to one street (not a corner lot) shall have a minimum of 25 feet from the door face of the garage or carport to the side property line for maneuvering.
- (f) Other regulations. As established in division 5 of this article, development standards.  
(Ordinance 2001-010, sec. 16, adopted 4/1/01; Ordinance 2003-006 adopted 7/3/03; 2006 Code, sec. 155.037; Ordinance 2006-014, sec. II(F), (G), adopted 2/1/07; Ordinance 2008-023, sec. II(C), adopted 7/17/08; Ordinance 2009-050, sec. II(F), adopted 12/3/09; Ordinance 2011-004, sec. II(F), adopted 1/20/11; Ordinance 2012-003, sec. II(C), adopted 2/2/12; Ordinance 2017-023, sec. II(C), adopted 8/3/17)

**ORDINANCE NO. 2019-XX**

**AN ORDINANCE APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT SUBMITTED BY MYSTIC HILL, LLC TO PERMIT THE OPERATION OF A VACATION RENTAL ON PROPERTY LOCATED AT 13301 RANCH ROAD 12, WIMBERLEY, TEXAS, ZONED SINGLE-FAMILY RESIDENTIAL 2 (R-2); AND PROVIDING FOR FINDINGS OF FACT; AMENDMENT OF THE ZONING DISTRICT MAP; REPEALER; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE AND MEETING; AND PROVIDING FOR CERTAIN CONDITIONS.**

**WHEREAS**, an application for a Conditional Use Permit (“CUP”) has been filed by Mystic Hill, LLC (“Applicant”) requesting authorization to operate a vacation rental on real property described as 3.295 acres out of the Amasa Turner Survey, Abstract No.461, zoned Single-Family Residential 2 (R-2); and

**WHEREAS**, a vacation rental is an authorized use in areas zoned Single-Family Residential 2 (R-2) upon approval of a CUP;

**WHEREAS**, after conducting a public hearing on the matter, the Planning and Zoning Commission recommended approval of the CUP application; and

**WHEREAS**, the City Council conducted a public hearing on the CUP wherein public comment was received and considered on the application; and

**WHEREAS**, the City Council finds that the use of the subject property as a vacation rental facility, subject to the conditions imposed by this Ordinance, is an appropriate use for the property and is a compatible use with the surrounding properties and neighborhoods.

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

**ARTICLE I. FINDINGS OF FACT**

All of the above premises 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.

**ARTICLE II. APPROVAL - TERMS AND CONDITIONS**

The CITY COUNCIL HEREBY GRANTS the Application for a Conditional Use Permit submitted by Mystic Hill, LLC (“Applicant”) for use as a vacation rental on real property, described as 3.295 acres out of the Amasa Turner Survey, Abstract No.461, as more particularly described by survey in Exhibit “A”, attached and incorporated by reference, zoned Single-Family Residential 2 (R-2), Wimberley, Hays County, Texas, subject to the following terms and conditions:

1. No organized outside activities shall be allowed on the property after 10 p.m.

2. No guests, other than paying guests, shall be allowed on the property at any time, unless approved in advanced, in writing, by the owner or their agent.
3. The grounds outside the residence shall remain free of litter and trash at all times.
4. A fire escape plan, identifying fire exits shall be developed and graphically displayed in each guest room.
5. One (1) smoke alarm shall be provided in each guest room, along with a fire extinguisher visible and accessible to guests.
6. A valid taxpayer number for reporting any Texas/City tax shall be provided to the City along with a copy of the completed City of Wimberley/State of Texas Hotel Occupancy Tax Questionnaire, no later than thirty (30) days of such change.
7. The City shall be notified of any change in ownership of the subject property within thirty (30) days of such change.
8. A copy of the requirements set forth in the CUP shall be made available to all guests.
9. The subject property owner shall provide the City and property owners within two hundred (200) feet of the subject property, with the current names and contact information (including telephone numbers and e-mail address) for the local responsible party for the subject property. The local contact shall be able to respond to any incident within thirty (30) minutes of a call and shall be authorized to make decisions regarding tenants at the property. If the name or contact information for the local contact changes, then the property owners shall notify the City and property owners within two hundred (200) feet of the subject property, with the current name and contact information.
10. Unruly gatherings are prohibited. Unruly gathering means a gathering of more than one (1) person which is conducted on premises within the City and which, by reason of the conduct of those persons in attendance, results in the occurrence of one (1) or more of the following conditions or events on public or private property: the destruction of property; obstruction of roadways, driveways, or public ways by crowds or vehicles; excessive noise; disturbances, brawls, fights or quarrels; public urination or defecation; or indecent or obscene conduct or exposure.
11. The property shall be subject to inspection at any time by designated City representatives if compliance is in question, with proper notice provided if feasible.
12. The CUP shall terminate and be considered abandoned if and when there is evidence of no rental activity, based in part of the State/City Hotel Occupancy Tax Reports, for a period of nine (9) months. The burden shall be on the property owner to prove that use of the property has been in continuous use.

13. A property address sign is required and shall be installed on the property no more than ten (10) feet from the street, with the address numbers at least four (4) inches high and two (2) inches wide.
14. One (1) freestanding business sign shall be allowed, but not required, on the property. Such sign shall not exceed four (4) square feet in area and shall be of traditional Hill Country design and color.
15. The maximum occupancy for the property shall be four (4) people.
16. The owner of the property or the owner's agent shall not advertise a maximum occupancy for the vacation rental that is greater than the maximum occupancy established by the City based on septic capacity.
17. The owner of the property or the owner's agent, which may be a vacation rental agency, shall provide each renter a property map for the vacation rental property that shows the boundaries of the property and advises that trespassing on adjacent property is prohibited.
18. Should an operating permit for vacation rental facilities be established by the City in the future, the owner of the subject property shall comply with any and all applicable operating permit requirements that may be established by the City.

### **ARTICLE III. ZONING DISTRICT MAP**

The official Zoning District Map shall be revised to reflect the Conditional Use Permit established by this Ordinance.

### **ARTICLE IV. REPEALER**

All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

### **ARTICLE V. SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

### **ARTICLE VI. EFFECTIVE DATE**

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

**ARTICLE VII. PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance 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, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED AND APPROVED** by the City of Wimberley City Council on the 18th day of April, 2019 by a vote of (Ayes) and (Nays) and (Abstain).

**CITY OF WIMBERLEY**

By: \_\_\_\_\_  
Susan Jagers, Mayor

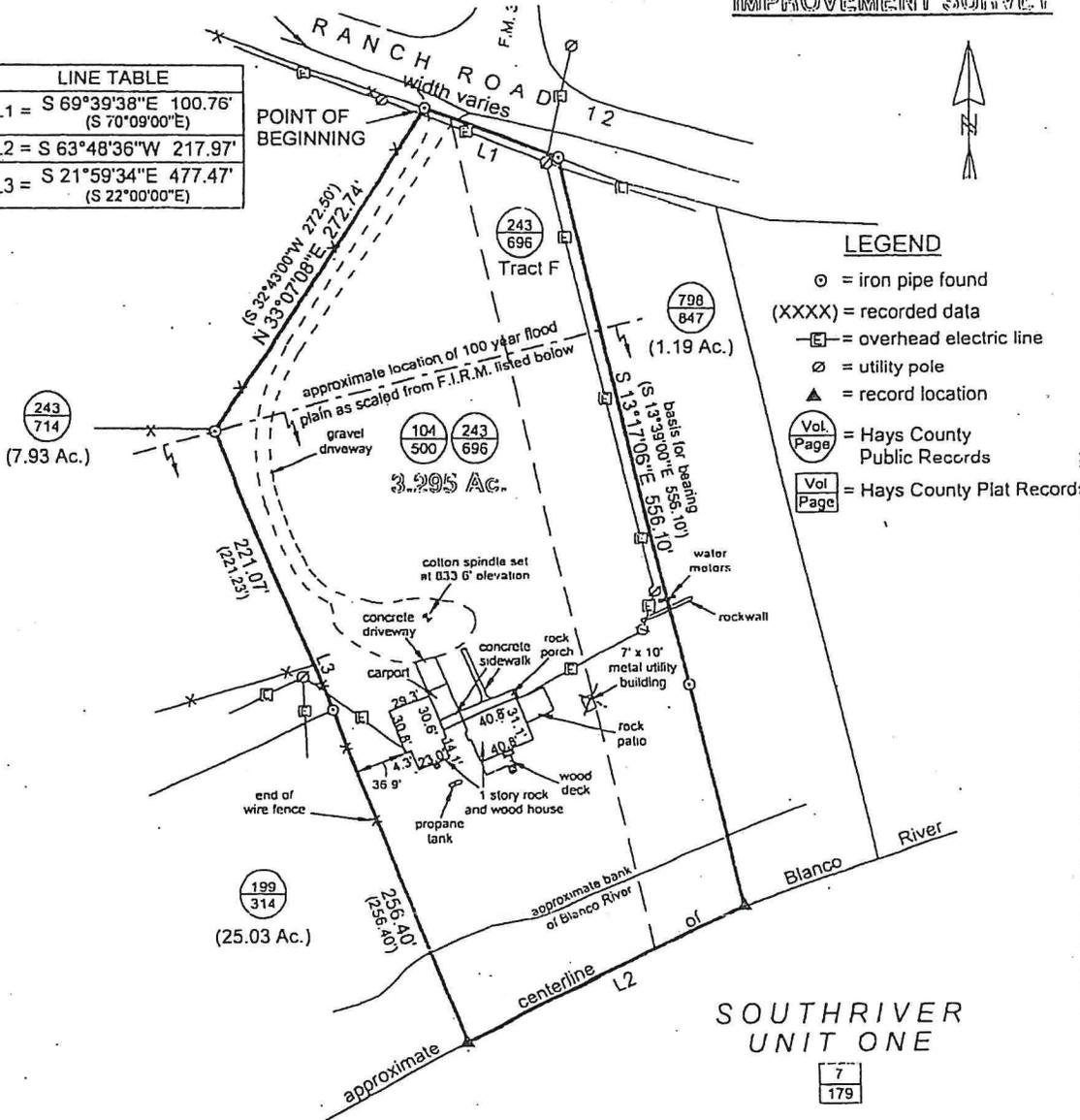
**ATTEST:**

\_\_\_\_\_  
Laura Calcote, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

LINE TABLE	
L1 =	S 69°39'38"E 100.76' (S 70°09'00"E)
L2 =	S 63°48'36"W 217.97'
L3 =	S 21°59'34"E 477.47' (S 22°00'00"E)



**LEGEND**

- ⊙ = iron pipe found
- (XXXX) = recorded data
- = overhead electric line
- ⊘ = utility pole
- ▲ = record location
- ⊙ Vol. Page = Hays County Public Records
- ⊙ Vol. Page = Hays County Plat Record

Copyright © 2008 Eagle Land Surveying. All rights reserved.

Subject property DOES lie within a Special Flood Hazard Area as determined from FIRM Hazard Map, Community Panel No. 481694 0355 F, dated September 2, 2005.

LEGAL DESCRIPTION: Being 3.295 acres of land, more or less, out of the AMASA TURNER SURVEY, being all of the remaining portion of that tract of land called 53.57 acres, as described and recorded in Volume 104, Page 500, Hays County Deed Records, all of that tract of land called one acre, more or less, as described and recorded in Volume 243, Page 696, Hays County Deed Records, and all of that tract of land conveyed to Jo Ann Pendleton by last will and testament, as described and recorded in Volume 243, Page 696, Hays County Deed Records, said 3.295 acres being more particularly described by metes and bounds in the field notes attached hereto.

ADDRESS: 13301 Ranch Road 12, Wimberley, Texas 78676

CLIENT: Joe Pendleton

This survey was produced without the benefit of a current title report, therefore certain easements may exist that were not apparent on the ground and are not shown hereon.

I hereby certify that this plat represents a survey made upon the ground under my supervision, on June 3, 2008, and there are no visible or apparent encroachments upon this property, except as shown hereon.

*Clyde Barroso*  
Clyde Barroso, R.P.L.S. #5404, State of Texas.



PNDLTON ZAK



**EAGLE LAND SURVEYING**  
(512) 847-1079  
P.O. Box 2264 Wimberley, TX 78676

Scale: 1" = 100'  
Date: June 5, 2008

Job No. 80145 jw

ZK B

# Report for Zoning ZA-19-002



## Summary:

A request to change the zoning of property located at 151 Oldham Street from Single-Family Residential 2 (R-2) to Commercial-Moderate Impact (C-2)

## Applicant Information:

**Applicant:** Mike Oldmixon  
**Property Owner:** Mike Oldmixon  
 4201 Monterrey Oaks Blvd  
 Austin, TX 78749

## Subject Property:

**Legal Description:** 0.57 Acres out of the Amasa Turner Survey, Abs. No. 461  
**Location:** 151 Oldham Street  
**Existing Use of Property:** Residential  
**Existing Zoning:** R-2  
**Proposed Use of Property:** Commercial  
**Proposed Zoning:** C-2  
**Planning Area:** IV  
**Overlay District:** City Center

## Surroundings:

**Frontage On:** Oldham Street

**Area Zoning and Land Use Pattern:**

	<b>Current Zoning</b>	<b>Existing Land Use</b>
<b>N of Property</b>	C1, R2	Commercial, Residential
<b>S of Property</b>	C3, C1	Commercial
<b>E of Property</b>	C2, MF2	Commercial, Residential
<b>W of Property</b>	C1	Commercial

## Legal Notice

**200' Letters:** 03/25/2019  
**Published:** 03/21/2019  
**Sign Placement:** 03/20/2019  
**Responses:** none

## Comments:

The applicant, Mike Oldmixon, has submitted an application to change the zoning for a tract of land located at 151 Oldham Street from Single-Family Residential 2 (R-2) to Commercial-Moderate Impact (C-2). The requested zoning change is to allow for more flexibility. The subject property is 0.57 acres in size.

Vocal opposition was received at the Planning and Zoning meeting on April 11<sup>th</sup> by property ID #14 as noted on the 200' notice map; this property is zoned Multi-Family Residential 2 and totals 6.31% opposition. The Planning and Zoning Commission voted 6-0-1 to recommend approval of the application.

**FOR OFFICIAL USE ONLY**

APPLICATION DATE: MARCH 11, 2019 FILE NO. ZA-19-002 5:30  
 TENTATIVE P&Z HEARING: 4-11-19 TENTATIVE COUNCIL HEARING: 4-18-19  
 CITY INITIATED:  YES -  NO PLANNING AREA: N ZONING REQUESTED: C-2  
 ZONING FEES: \$ 779 DATE PAID: 3-12-19 RECEIVED BY: SIF

**APPLICATION FOR COMMERCIAL ZONING**  
 NON-RESIDENTIAL, MULTI-FAMILY DEVELOPMENTS, MOBILE HOME DEVELOPMENTS

**OWNER, AGENT AND PROJECT DATA**

STREET ADDRESS OF PROPERTY TO: 151 OLDHAM ST. Wimberley, Texas HAYS COUNTY CENTRAL APPRAISAL DISTRICT  
 BE ZONED: 151 OLDHAM ST. Wimberley, Texas PROPERTY ID#: R 18445 \*\*  
 \* New street addresses can be obtained by calling (512) 393-2160  
 \*\* This number may be obtained this from your property tax statement or HCAD's website.

**PLEASE PROVIDE DIRECTIONS TO YOUR PROPERTY:**

FROM RR12 TURN NORTH, PROPERTY ON LEFT AT END OF OLDHAM LN. PICKET FENCE.

**NOTE:** Please clearly mark your property so it is easily identifiable.

1. OWNER'S NAME: MICHAEL L. OLDMIXON HOME PHONE: [REDACTED]  
 BUSINESS PHONE: ( ) \_\_\_\_\_  
 FAX: ( ) \_\_\_\_\_  
 E-MAIL: [REDACTED]

OWNER'S CURRENT MAILING #1607  
 ADDRESS 4201 MONTEREY OAKS BLVD CITY AUSTIN STATE TX ZIP 78749  
 EMAIL: MIKEOLDMIXON@YAHOO.COM

2. AGENT'S NAME: \_\_\_\_\_ AGENT'S PHONE: ( ) \_\_\_\_\_  
 FAX: ( ) \_\_\_\_\_  
 AGENT'S FIRM NAME: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

AGENT'S FIRM MAILING  
 ADDRESS: \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
 EMAIL: \_\_\_\_\_

**PROPERTY INFORMATION**

3. TOTAL AREA TO BE ZONED: ACRES 0.58 (OR) SQ.FT. 25,150 TOTAL NO. of TRACTS: 1

4. PLANNING AREA(S) : IV 5. REQUESTED ZONING CLASSIFICATION: C2

PROPOSED USE(S): SINGLE FAMILY

6. EXISTING ZONING CLASSIFICATION(S) AND USES (if applicable): R2 - SINGLE FAMILY

7. LEGAL DESCRIPTION

Street Address: 151 OLDHAM ST. Subdivision: OLLIE OLDHAM

Block(s) \_\_\_\_\_ Lot(s) 4

Plat Book: AMASA TURNER SURVEY Page Number: ABS 461

8. DEED RECORDS: (REFERENCE OF DEED CONVEYING PROPERTY TO THE PRESENT OWNER):

VOLUME: \_\_\_\_\_ PAGE: \_\_\_\_\_ OF COUNTY PLAT RECORDS

**9. OTHER PROVISIONS**

A. IS PROPERTY IN AN OVERLAY DISTRICT? YES X NO \_\_\_\_\_ UNKNOWN \_\_\_\_\_

TYPE OF OVERLAY ZONE(S) (if applicable) VILLAGE CENTER

B. FLOOD PLAIN (What, if any, flood zone does your property occupy?): NO

C. ELECTRIC UTILITY PROVIDER : PEC

WATER UTILITY PROVIDER: WWSO

WASTEWATER UTILITY PROVIDER: N/A SEPTIC

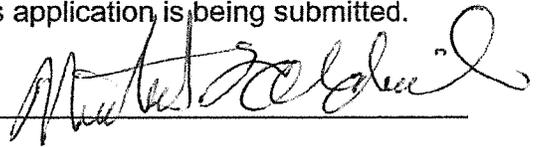
HAYS COUNTY SEPTIC PERMIT NUMBER (if applicable): \_\_\_\_\_

**Related Cases, if Applicable**

- Zoning File No. \_\_\_\_\_
- Building Permit File No. \_\_\_\_\_
- Subdivision File No. \_\_\_\_\_
- Sign Permit File No. \_\_\_\_\_
- Engineered construction File No. \_\_\_\_\_

**SITE INSPECTION AUTHORIZATION**

Applicant/owner, or Applicant's authorized agent, hereby authorizes the City of Wimberley representatives to visit and inspect the property for which this application is being submitted.

Date: 3/11/19 APPLICANT SIGNATURE 

WHEN APPLICABLE:

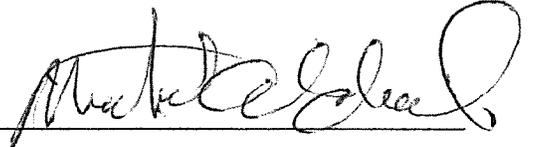
Date: \_\_\_\_\_ AGENT SIGNATURE \_\_\_\_\_

**ACKNOWLEDGMENT OF EXISTING  
Subdivision Plat Notes, Deed Restrictions Restrictive Covenants  
and/or Zoning Conditional Use Permits**

I, the Applicant herein, have checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permits prohibiting certain uses and/or requiring certain development restrictions (for example, height, access, screening) on the property now being zoned on my behalf and located at: 151 OLDHAM ST., and more particularly known as Lot 4, Block \_\_\_\_\_ of the OLLIE OLDHAM Subdivision.

If a conflict should result with the request I am submitting to the City of Wimberley due to subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permits it will be my responsibility to resolve it. I also acknowledge that I understand the implications of use and/or development restrictions that are a result of subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permits.

I understand that if requested, I must provide copies of any and all subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permit information, which may apply to this property.

Date: 3/11/19 APPLICANT SIGNATURE 

WHEN APPLICABLE:

Date: \_\_\_\_\_ AGENT SIGNATURE \_\_\_\_\_

## SUBMITTAL CHECKLIST

TO ENSURE THAT YOU HAVE COMPLIED WITH THE ZONING APPLICATION REQUIREMENTS, REVIEW THE FOLLOWING LIST. FAILURE TO COMPLETE THE NECESSARY STEPS CAN CAUSE A DELAY IN PROCESSING YOUR APPLICATION.

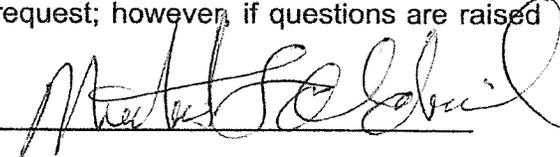
- Complete "Application For Zoning"
- Provide plat map of property to be zoned which includes all properties within 200 feet of any portion of Applicant's property; and which clearly indicates streets in surrounding area.
- Provide plat map of the specific property to be zoned.
- Provide names and addresses of property owners within 200 feet of any portion of Applicant's property.
- Provide a legal description of the property to be zoned.
- Sign/date Submittal Verification form.
- Sign/date Site Inspection Authorization form.
- Sign/date Acknowledgement Form.
- Pay Zoning Fee (this fee is based on the cost of services incurred by the City of Wimberley in reviewing, processing and recording the zoning request).
- Applicant agrees to attend a pre-zoning conference prior to acceptance of Application.
- Applicant agrees to attend Planning & Zoning Commission hearings scheduled for Applicant's proposed zoning.
- Applicant agrees to attend City Council hearing scheduled for Applicant's proposed zoning or waives his/her rights of appearance (see below).

## SUBMITTAL VERIFICATION AND/OR WAIVER OF APPEARANCE

(X) My signature attests to the fact that the attached application package is complete and accurate to the best of my knowledge. I understand that City review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided by me, my firm, or agent, may delay the review of the Application.

( ) I hereby waive my right to appear before the City of Wimberley City Council at the public hearing to be held concerning the zoning of my above-referenced property. I understand that my failure to appear allows the Council to consider my zoning request; however, if questions are raised that cannot be answered, the matter will be continued.

Date: 3/11/19

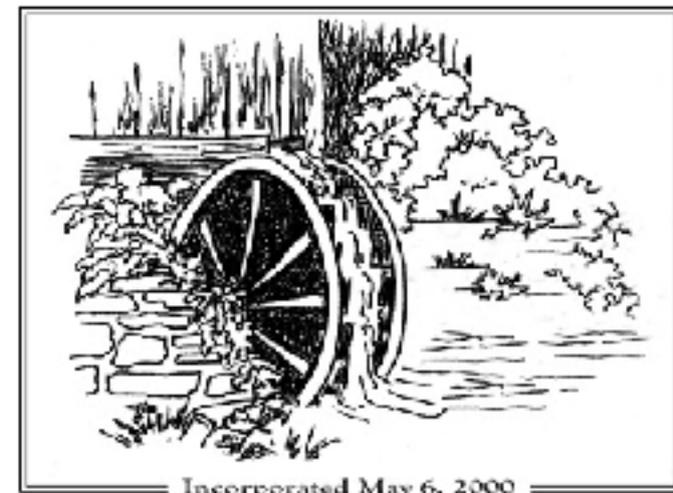
APPLICANT SIGNATURE 

WHEN APPLICABLE:

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

AGENT SIGNATURE \_\_\_\_\_

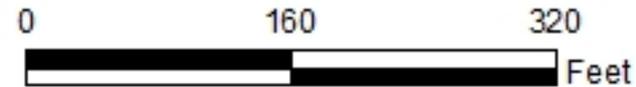
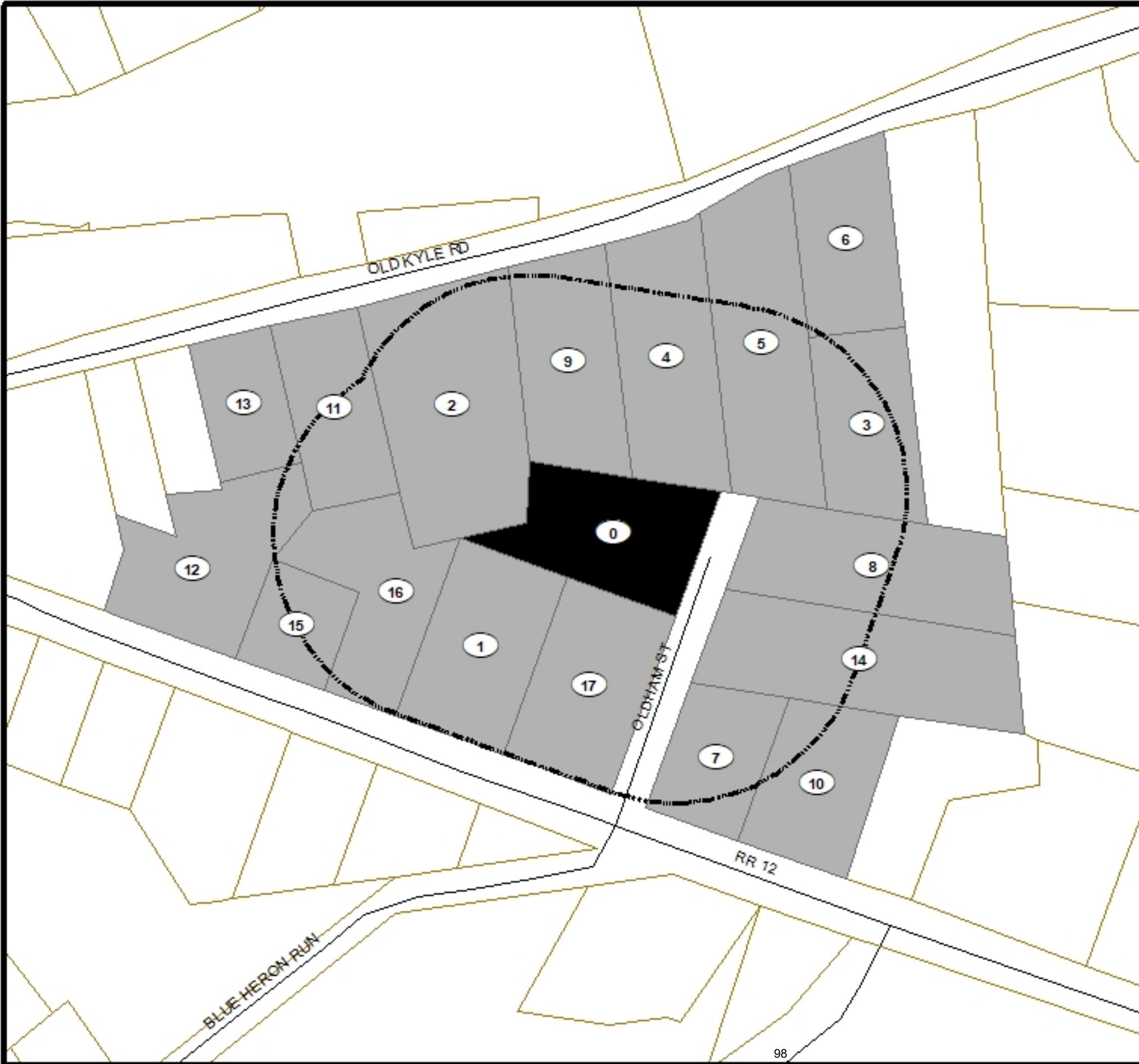
# ZA-19-002 ~ 151 Oldham Street

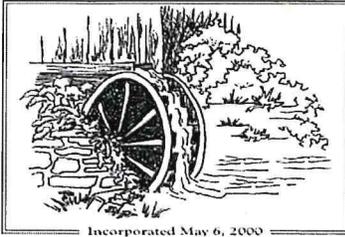


## 200' NOTIFICATION

### Legend

- 200' Buffer
- ID. OWNER**
- 0. SUBJECT TRACT
- 1. AUSTIN FRANK M III
- 2. BILLINGSLEY, CLAIRE M
- 3. BURNETTE CARL W JR FAMILY TRUST & STORM LYNNE
- 4. BURNETTE CARL W JR FAMILY TRUST & STORM LYNNE
- 5. BURNETTE CARL W JR FAMILY TRUST & STORM LYNNE
- 6. BURNETTE CARL W JR FAMILY TRUST & STORM LYNNE
- 7. DER HUND HAUS LLC
- 8. DONALD & REBECCA MINNICK
- 9. GRADY BURNETTE BUILDER
- 10. MAILBOX LLC
- 11. RAY BERT E & JULIE L
- 12. SANDER ALBERT & JEAN
- 13. SANDER ALBERT A & JEAN A
- 14. WILDER JUDITH S & CHARLES M
- 15. WIMBERLEY CHRISTIAN CHURCH
- 16. WIMBERLEY CHRISTIAN CHURCH
- 17. WIMBERLEY CLEAR WATER PROPERTY LLC





# City of Wimberley

221 Stillwater (P.O. Box 2027), Wimberley, Texas 78676  
Phone: 512-847-0025 Fax: 512-847-0422 Web: [cityofwimberley.com](http://cityofwimberley.com)

March 15, 2019

## NOTICE OF PUBLIC HEARING

**Re: File No. ZA-19-002**  
151 Oldham Street

Dear Property Owner:

You are receiving this letter because you own property within 200 feet of the above-referenced location.

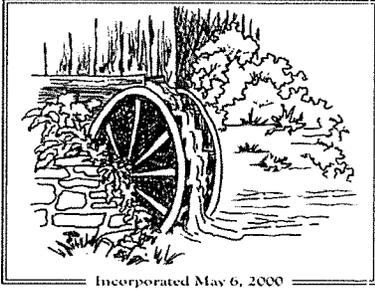
The applicant, Mike Oldmixon, is proposing to change the zoning from **Single-Family Residential 2 (R-2) to Commercial-Moderate Impact (C-2)** for property located at 151 Oldham Street. The City of Wimberley Planning & Zoning Commission will consider this request at a public hearing on **Thursday, April 11, 2019, at 6:00 p.m.** in the Wimberley City Hall, 221 Stillwater. Upon a recommendation from the Commission, City Council will hold a public hearing to consider the same request on **Thursday, April 18, 2019, at 5:30 p.m.**

Because the granting of this request may affect your property, you are encouraged to participate in the zoning process. The public will be given an opportunity to speak during the hearing. If you wish to comment but are unable to attend, written comments may be submitted prior to the meeting.

Additional information regarding the proposed request is available for public review at City Hall during normal business hours. Should you have questions, please feel free to email or contact me at 512-847-0025.

Thank you,

Sandy I. Floyd, C.F.M.  
Planning & Development Coordinator  
GIS Analyst  
[sfloyd@cityofwimberley.com](mailto:sfloyd@cityofwimberley.com)



# City of Wimberley

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

## NOTICE BY SIGN POSTING

DATE: March 20, 2019

ZONING NO: ZA-19-002

APPLICANT: Mike Oldmixon

TO: CODE ENFORCEMENT/PUBLIC WORKS

Please place a Proposed Zoning Sign on the following property:

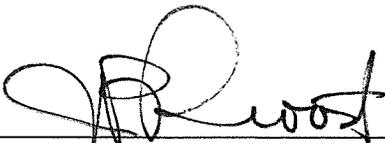
Project Site Address: 151 Oldham Street

John Provost  
Public Works/Code Enforcement

City of Wimberley

Note: The above referenced sign was placed on the subject property on

3/20 2019

  
\_\_\_\_\_  
Signature

# The Wimberley CLASSIFIED



P.O. Box 49 Wimberley, Texas 78676 5

**Public Notice**

City of Dripping Springs  
Public Notice of Approved Ordinance  
Ordinance No. 2019-12

AN ORDINANCE AMENDING CHAPTER 18, TRAFFIC AND VEHICLES, CREATING ARTICLE 18.04, OF THE DRIPPING SPRINGS CODE OF ORDINANCES; ESTABLISHING REGULATIONS FOR MOTOR-ASSISTED SCOOTERS; PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; ENACTMENT; REPEALER; SEVERABILITY; CODIFICATION; EFFECTIVE DATE; AND PROPER NOTICE & MEETING.

**NOTICE OF PUBLIC HEARING  
(Request for Zoning)**

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, April 11, 2019 at 6:00 p.m. to consider the following: ZA-19-002 – a request to change the zoning from Single-Family Residential 2 (R-2) to Commercial-Moderate Impact (C-2) for property located at 151 Oldham Street. Upon recommendation of the Planning & Zoning Commission, the City Council will also hold a public hearing on Thursday, April 18, 2019, at 5:30 p.m. at City Hall. Comments on this request from any member of the public may be presented in person at City Hall, by mail (PO Box 2027), or by email ([sfloyd@cityofwimberley.com](mailto: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, 221 Stillwater, Wimberley, Texas.

**NOTICE TO ALL PERSONS HAVING  
CLAIMS AGAINST THE ESTATE  
OFFRANCES PHARR MCMASTER**

Notice is hereby given that original Letters Testamentary for the Estate of FRANCES PHARR MCMASTER, Deceased, were issued on March 18, 2019 in Cause No. 19-0086-P pending in the County Court at Law of Hays County, Texas, to Armond H.

**Public Notice**

**NOTICE OF PUBLIC HEARING  
(Request for Zoning)**

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, April 11, 2019 at 6:00 p.m. to consider the following: ZA-19-003 – a request to change the zoning from Residential Acreage (RA) to a Wimberley Planned Development District (WPDD) with base zoning of Participant Recreation – Low Impact (PR-1) at 13401 Ranch Road 12. Upon recommendation of the Planning & Zoning Commission, the City Council will also hold a public hearing on Thursday, April 18, 2019, at 5:30 p.m. at City Hall. Comments on this request from any member of the public may be presented in person at City Hall, by mail (PO Box 2027), or by email ([sfloyd@cityofwimberley.com](mailto: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, 221 Stillwater, Wimberley, Texas

**NOTICE OF ENACTMENT**

**CITY OF WOODCREEK, TEXAS**

**ORDINANCE NO. 19 - 256**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WOODCREEK, TEXAS REPEALING ALL RATES AND FEES CONTAINED IN THE CODE OF ORDINANCES OF THE CITY OF WOODCREEK; REPEALING ANY CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR A FINDING OF PROPER NOTICE AND OPEN MEETING.

**NOTICE TO CREDITORS**

Notice is given that original Letters Testamentary for the Estate of Virginia A. Butterfield. Deceased. were issued on March 11.

**Public Notice**

**Public Notice**

**Public Notice**

STATE OF NEW MEXICO  
COUNTY OF LINCOLN  
TWELFTH JUDICIAL DISTRICT

FONAY LAND COMPANY, LLC,  
A New Mexico Limited Liability Company

Plaintiff,

v. Cause No. D-1226-CV-2018-00315

SCOTT J. STORM,  
as Domiciliary Foreign Personal Representative  
of the Estate of Lynn W. Storm, deceased,

SCOTT D. HARRINGTON, and

SUSAN W. FREDERICKSON

Defendants.

**SUMMONS AND NOTICE OF PENDENCY OF**

TO: Scott J. Storm:

**GREETINGS:**

YOU are hereby notified that there has been filed in the District of Lincoln County, New Mexico, in the above entitled cause of a complaint for breach of contract, negligent misrepresentation, performance, wherein Fonay Land Company, LLC is the Plaintiff and the Defendant. You are further notified that unless you enter your appearance in said cause on or before thirty (30) days of the date of the last of this notice, judgment by default will be rendered in said cause failing to appear, and the Plaintiff will apply to the Court for judgment as demanded in the Complaint.

Hennighausen & Olsen, L.L.P. (A.J. Olsen and Olivia R. Mite attorneys for the Plaintiff and their office address is 604 North Richardson Avenue, Roswell, New Mexico 88201 (P.O. Box 1415, Roswell, New Mexico 88202-telephone number 575-624-2463.



LINCOLN COUNTY DISTRICT CLERK  
By: /s/ Gloria Lama

Respectfully submitted,

HENNIGHAUSEN & OLSEN, L.L.P.  
By: /s/ A.J. Olsen  
A.J. Olsen, Esq.

**Sec. 9.03.073 Single-Family Residential 2; R-2**

- (a) General purpose and description. The R-2 district is intended to provide for development of primarily detached, single-family residences on lots of not less than 20,000 square feet.
- (b) Permitted uses.
- (1) One residence, including:
    - (A) Single-family detached dwellings.
    - (2) Accessory buildings and uses, customarily incidental to the above uses and located on the same lot therewith or on a contiguous lot under the same ownership that satisfies the requirements of section 9.03.182, but not involving the conduct of a retail business except as provided herein:
      - (A) The term “accessory use” shall include customary home occupations as herein defined;
      - (B) Accessory buildings, including a private garage, shall not occupy more than 50% of the minimum required rear yard. When the accessory building is directly attached to the main building, it shall be considered an integral part of the main building. See section 9.03.182 for additional accessory use requirements;
      - (C) A detached private garage used in conjunction with the main building;
      - (D) Private open space or other private recreational amenities as part of a residential subdivision and not for commercial purposes; and
      - (E) One accessory dwelling unit.
    - (3) Swimming pool (private);
    - (4) Utilities (public); and
    - (5) Religious assembly.
- (c) Conditional uses.
- (1) Bed and breakfast lodging located only in the residential building;
  - (2) Home day care;
  - (3) Home commercial crafts or hobbies;
  - (4) Telecommunications towers, commercial antennas, and broadcast towers, subject to all applicable city regulations;
  - (5) Two-family residential (duplex);
  - (6) One secondary single-family residential building built on-site;
  - (7) One manufactured home installed on a permanent foundation, as the primary residence;
  - (8) Vacation rental; and
  - (9) Personal care home.
- (d) Development regulations.
- (1) Lot size: Minimum 20,000 square feet but less than 2 acres.
  - (2) Maximum building height (as defined in section 9.03.005):
    - (A) Primary residential building: not more than 2 stories and not more than 28 feet with flat roof (see definition) or 35 feet with pitched roof;
    - (B) Secondary residential building: Not more than 2 stories and not more than 28 feet with flat roof (see definition) or 35 feet with pitched roof;
    - (C) Accessory buildings: Not more than 18 feet and not more than one story; and
    - (D) Decks: Not more than 12 feet including a railing only or 18 feet including a roof.
  - (3) The minimum setbacks shall be the larger of the dimensions in section 9.03.184(a), table A, or the following:
    - (A) Dominant street: 40 feet;
    - (B) Secondary street: 15 feet;

- (C) Interior side yard: 10 feet; and
- (D) Rear yard: 20 feet.
- (4) Minimum floor area:
  - (A) Primary residential building: 600 square feet.
  - (5) Maximum impervious cover: 35%. Impervious cover shall be calculated as a percentage of the net site area.
  - (6) The parking and trash collection ordinances will apply.
- (e) Special requirements.
  - (1) Recreational vehicles, travel trailers, or motor homes may not be used for on-site dwelling purposes.
  - (2) Open storage is prohibited, except for materials for the resident's personal use or consumption such as firewood, gardening materials, and the like.
  - (3) Single-family homes with side entry garages where lot frontage is only to one street (not a corner lot) shall have a minimum of 25 feet from the door face of the garage or carport to the side property line for maneuvering.
- (f) Other regulations. As established in division 5 of this article, development standards.

(Ordinance 2001-010, sec. 16, adopted 4/1/01; Ordinance 2003-006 adopted 7/3/03; 2006 Code, sec. 155.037; Ordinance 2006-014, sec. II(F), (G), adopted 2/1/07; Ordinance 2008-023, sec. II(C), adopted 7/17/08; Ordinance 2009-050, sec. II(F), adopted 12/3/09; Ordinance 2011-004, sec. II(F), adopted 1/20/11; Ordinance 2012-003, sec. II(C), adopted 2/2/12; Ordinance 2017-023, sec. II(C), adopted 8/3/17)

**Sec. 9.03.084 Commercial - Moderate Impact; C-2**

- (a) General purpose and description. The C-2, Commercial 2 district is established to provide areas for shopping and service facilities for the retail sales of goods and services. These shopping areas must satisfy established landscape and buffering requirements.
- (b) Permitted uses.
- (1) Administrative and professional office:
    - (A) Insurance, real estate, attorneys, accountants, architects, investment services, travel agencies;
    - (B) Photography studios, doctors, dentists;
    - (C) Nonprofit organizations (with certain restrictions);
    - (D) Civic uses (such as city halls);
    - (E) Research services: limited; and
    - (F) Office.
  - (2) Religious assembly;
  - (3) Medical services: limited;
  - (4) Personal services: general;
  - (5) Accessory uses to the main use;
  - (6) Retail sales and services: general;
  - (7) Retail sales and services: flea market/market day;
  - (8) Eating establishments: sit-down, not including the sale of beer, wine, or alcohol for on-premises consumption;
  - (9) Plant nurseries;
  - (10) Emergency shelter and feeding site (humans);
  - (11) Communications services: limited (such as studios);
  - (12) Commercial/residential;
  - (13) Banks and savings and loan associations;
  - (14) Funeral and interment services: cremating;
  - (15) Funeral and interment services: interring;
  - (16) Funeral and interment services: undertaking;
  - (17) Animal interment services;
  - (18) Private primary educational services;
  - (19) Private secondary educational services;
  - (20) Single-family residence; and
  - (21) Low impact institutional: residential oriented.
- (c) Conditional uses.
- (1) A drive-through or drive-in facility otherwise allowed in any permitted use in this district shall be allowed only with a conditional use permit;
  - (2) Personal services: limited;
  - (3) Gasoline sales: limited;
  - (4) Automotive washing;
  - (5) Personal storage;
  - (6) Bed and breakfast lodging;
  - (7) Telecommunications towers, commercial antennas, and broadcast towers, subject to all applicable city regulations;

- (8) Eating establishments: fast food with drive-through order windows;
- (9) Eating establishments: sit-down, including the sale of beer, wine, or alcohol for on-premises consumption;
- (10) Package store;
- (11) Liquor store.
- (12) Vacation rental; and
- (13) Personal care home;
- (d) Development regulations.
  - (1) Minimum lot size: 5,000 square feet.
  - (2) 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.
  - (3) The minimum setbacks shall be the larger of the dimensions in section 9.03.184(a), table A, or the following:
    - (A) Dominant street: 15 feet;
    - (B) Secondary street: 15 feet; and
    - (C) Interior side or rear yard: 10 feet, 20 feet when adjacent to a residential district and the building is more than one story.
  - (4) Maximum impervious coverage: 70%. Impervious cover shall be calculated as a percentage of the net site area.
  - (5) Maximum building coverage: 60%. Building coverage shall be calculated as a percentage of the net site area.
  - (6) Maximum building footprint: 15,000 square feet.
  - (7) Maximum floor area: 20,000 square feet.
- (e) Parking regulations. As required by section 9.03.181, off-street parking and loading requirements.
- (f) Special requirements.
  - (1) For site plan requirements, see section 9.03.183.
  - (2) Open storage is prohibited; however, periodic display of seasonal items (such as Christmas trees, pumpkins, and the like) is allowed during the appropriate time periods.
  - (3) These districts shall be limited to properties fronting on major transportation arterials, provided the location is not incompatible with an existing residential neighborhood or property.
- (g) Other regulations. As established in division 5 of this article, development standards.

(Ordinance 2001-010, sec. 27, adopted 4/1/01; Ordinance 2003-006 adopted 7/3/03; Ordinance 2004-017 adopted 8/5/04; 2006 Code, sec. 155.048; Ordinance 2007-010, adopted 5/22/07; Ordinance 2008-009, sec. II(B), adopted 2/21/08; Ordinance 2008-023, sec. II(M), adopted 7/17/08; Ordinance 2009-031, sec. II(D), (E), adopted 7/16/09; Ordinance 2009-050, sec. II(F), adopted 12/3/09; Ordinance 2011-004, sec. II(F), adopted 1/20/11; Ordinance 2012-003, sec. II(C), adopted 2/2/12; Ordinance 2015-005, sec. II(D), (E), adopted 2/19/15)

**ORDINANCE NO. 2019-XX**

**AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS REZONING A PROPERTY LOCATED AT 151 OLDHAM STREET, WIMBERLEY, HAYS COUNTY, TEXAS, FROM SINGLE-FAMILY RESIDENTIAL 2 (R-2) TO COMMERCIAL MODERATE IMPACT (C-2).**

**WHEREAS**, Chapter 211 of Vernon’s Local Government Code empowers the City Council of the City of Wimberley to enact zoning regulations and provides for their administration, enforcement and amendment; and

**WHEREAS**, the regulations established by the Wimberley Code of Ordinances Section 155 (Zoning), as amended, (the “Code”) are specifically designed to lessen congestion in the streets; secure safety from fire, panic, and other dangers; promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public facilities; and

**WHEREAS**, the City Council of the City of Wimberley has complied with all notice of public hearing as required by the Code and State law; and

**WHEREAS**, in keeping with the spirit and objectives of the area, the City Council has given due consideration to all components of said proposed zoning change and the recommendations of the Planning and Zoning Commission concerning recommended requirements, conditions and safeguards necessary to protect adjoining property; and

**WHEREAS**, it is the intent of the City Council to provide harmony between existing zoning districts and proposed land uses; and

**WHEREAS**, the City Council desires to amend the Zoning Map by rezoning 0.58 acres out of the Amasa Turner Survey, Abstract No. 461, in Wimberley, Hays County, Texas, commonly known as 151 Oldham Street from Single-Family Residential 2 (R-2) to Commercial-Moderate Impact (C-2) zoning classification.

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

**ARTICLE I. REZONING**

THAT the Zoning Map of the City of Wimberley is hereby amended by rezoning a 0.58 acres out of the Amasa Turner Survey, Abstract No. 461, in Wimberley, Hays County, Texas, commonly known as 151 Oldham Street, and more particularly described on the attached Exhibit “A”, incorporated by reference for all purposes, from Single-Family Residential 2 (R-2) to Commercial-Moderate Impact (C-2) zoning classification.

**ARTICLE II. SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

**III. EFFECTIVE DATE**

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

**ARTICLE IV. PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance 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, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this 18th day of April 2019, by (Ayes) to (Nays) (Abstain) vote of the City Council of the City of Wimberley, Texas.

**CITY OF WIMBERLEY**

BY: \_\_\_\_\_  
Susan Jagers, Mayor

**ATTEST:**

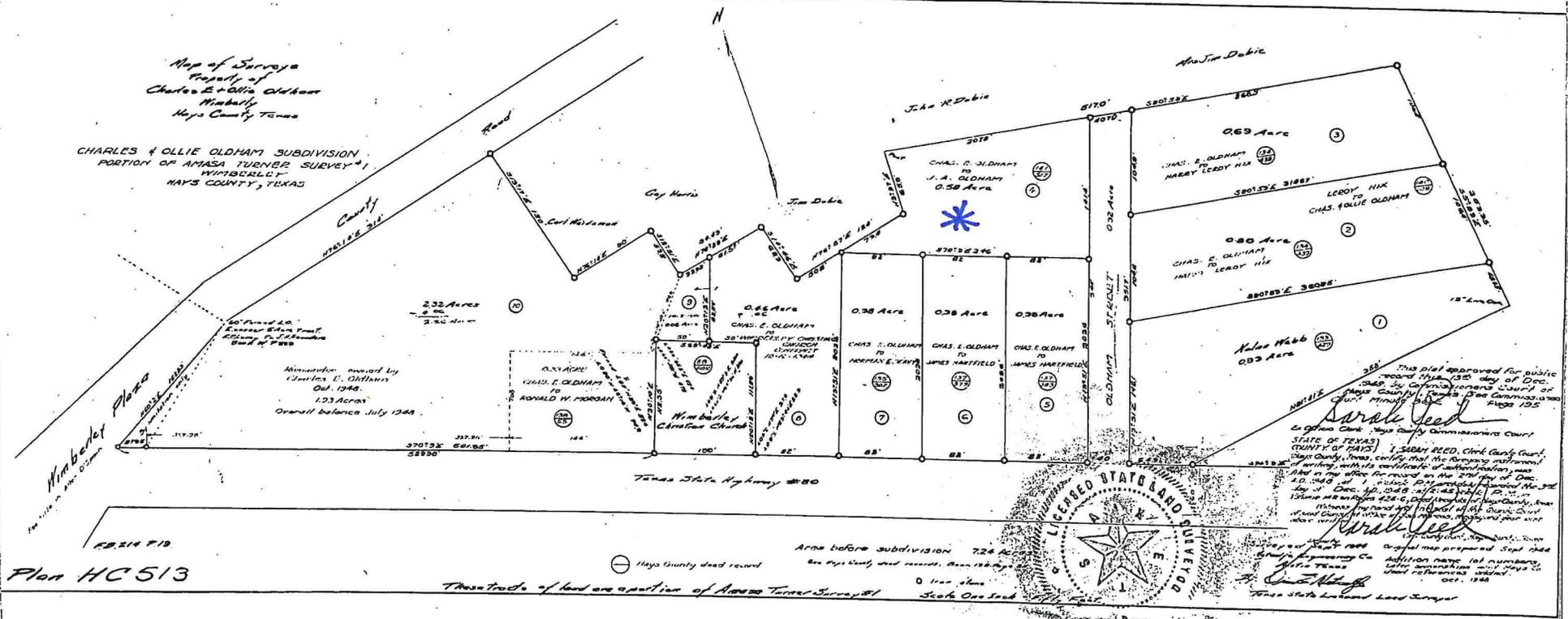
\_\_\_\_\_  
Laura Calcote, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

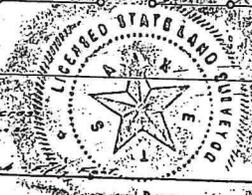
Map of Survey  
 Property of  
 Charles & Ollie Oldham  
 Winberly  
 Hays County, Texas

CHARLES & OLLIE OLDHAM SUBDIVISION  
 PORTION OF AMASA TURNER SURVEY #1,  
 WINBERLY  
 HAYS COUNTY, TEXAS



Plan HC 513

These tracts of land are a portion of Amasa Turner Survey #1



This plat approved for public record this 13th day of Dec 1948 by the Honorable Board of Commissioners of Hays County, Texas. See Commission Order 105.

*Sarah Reed*  
 County Clerk, Hays County Commissioners Court  
 State of Texas

I, SARAH REED, Clerk County Court, Hays County, Texas, certify that the foregoing instrument was filed in the office for record on the 23rd day of Dec. 1948 and that I have duly recorded the same. Witness my hand and official seal of the County Court of Hays County, Texas, at Winberly, Texas, this 23rd day of Dec. 1948.

*Sarah Reed*  
 County Clerk, Hays County, Texas

Original map prepared Sept 1948  
 Survey prepared by  
 Hays County  
 Addition maps and numbers  
 used references should  
 be made to  
 1948

Vol. 142  
 Pg 426

SARAH REED, COUNTY CLERK, HAYS COUNTY, TEXAS

*Sarah Reed*

Filed for record December 2, A.D. 1948 at 1:00 o'clock P.M.  
 Recorded December 3, A.D. 1948 at 2:45 o'clock P.M.

EXHIBIT 108 "A"



**AGENDA ITEM:** Ordinance No. 2019-08 - STRs  
**SUBMITTED BY:** Shawn Cox, City Administrator  
**DATE SUBMITTED:** April 15, 2019  
**MEETING DATE:** April 15, 2019

## AGENDA FORM

### ITEM DESCRIPTION/SUMMARY

In July 2018, the Council adopted Ordinance 2018-28, which established the Short-term Rental Review Committee. The Committee was established to:

1. Review the City's Conditional Use Permit Process
2. Identify non-compliant STRs
3. Outline a procedure for bringing identified properties into compliance
4. Make actionable recommendations to Council

Through their work, the Committee has presented to the Planning and Zoning Commission Ordinance 2019-08, which would remove Sec. 9.03.141-Bed and Breakfast Lodging Requirements and Se. 9.03.142-Vacation Rental Lodging Requirements and replace them with a new Sec. 9.03.141-Short Term Rentals.

Planning and Zoning held a Public Hearing on the proposed Code amendments on February 14, 2019.

The proposed ordinance provides the following changes to the previous Sections of the Code of Ordinances:

#### **Definitions:**

- References to "Bed and Breakfast Lodging" and "Vacation Rental Lodging" are replaced throughout the Code with "STR1" and "STR 2", respectively.
- The term "Transient Lodging" is included and defined as a property use which has paying guests, tenants, and/or renters of a STR property who stay 30 or less consecutive days in the subject property.

#### **Requirements:**

All Transient Lodging properties will be required to renew annually with the City.

- Previously approved CUPs will be approved through an administrative renewal and not be required to go back through the legislative (P&Z and City Council) process.
- All legal nonconforming transient lodging uses will also be required to go through the

Administrative Review process to obtain an Administrative CUP.

**Consideration for Approval of a CUP:**

- Ordinance 2019-08 removes the following considerations (these will be incorporated into other codes adopted by the City):
  - o Rental regulations (such as no large parties, no extra guests) imposed by the owner and the degree of owner involvement in property management
  - o Compliance with all state, county, and city ordinances, laws, rules, and regulations, including the building code and fire code
  - o Adequacy of wastewater treatment systems
  
- The proposed ordinance adds the following considerations:
  - o The impact of potential transient lodging activity on any surrounding residential properties
  - o The area and the impact of STR lodging activities on the area
  - o The incremental environmental impact of the STR
  - o Privacy fencing, landscaping, and natural noise barriers on the STR property that are appropriate for the protection of any abutting uses
  - o Any other factors in the City's Comprehensive Plan deemed appropriate and consistent with the City's zoning authority

**Parking:**

The parking requirements have been amended to address concerns raised at the Public Hearing held by P&Z. Requirements will remain the same as previously establish in Sec. 9.03.141 & Sec. 9.03.142, which established the following standards:

- STR 1. Two (2) parking spaces are required. Required off-street parking shall be provided on the same site as the use it is to serve. Parking areas shall be clearly identified on the property and adequate maneuvering space shall be provided for vehicle ingress and egress. In Planning Areas I and II, all vehicle parking shall be on a suitable parking surface as determined by the City. In all other planning areas, all off-street parking shall be surfaced in accordance with the parking lot surfacing requirements in the city's regulations. No parking shall be permitted on grass, within landscaped areas, or on other unimproved surfaces.
  
- STR 2. One (1) parking space is required. Required off-street parking shall be provided on the same site as the use it is to serve. Parking areas shall be clearly identified on the property and adequate maneuvering space shall be provided for vehicle ingress and egress. In Planning Areas I and II, all vehicle parking shall be on a suitable parking surface approved by the city. In all other planning areas, all off-street parking shall be surfaced in accordance with the parking lot surfacing requirements in the city's regulations. No parking shall be permitted on grass, within landscaped areas, or on other unimproved surfaces.

At the Planning & Zoning Commission meeting April 11<sup>th</sup>, the Commission voted unanimously 7-0-0 to remove the annual renewal component of the proposed ordinance.

**REQUESTED ACTION**

- Motion
- Discussion
- Ordinance
- Resolution
- Other

**STAFF RECOMMENDATION**

**ATTACHMENT(S)**

- Ordinance No. 2019-08

# The Wimberley View

# CLASSIFIEDS

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



**Public Notice**

**HTGCD: 20 DAY NOTICE OF OPERATING PERMIT APPLICATION:**  
Eagles Nest

The Hays Trinity Groundwater Conservation District (HTGCD) received an operating permit application from Eagles Nest, 301 Eagles Nest, Wimberley. The applicant requested an annual production amount of 1.21 acre feet. The intended well's non-exempt use, Commercial. The application has been reviewed and is administratively complete. District staff recommendation: one-year renewable operating permit for 1.21 acre feet, monthly meter production recording with quarterly reporting to HTGCD, and mandatory drought cut-back production restrictions during declared droughts by HTGCD will curtail applicant's maximum annual production. The twenty-day deadline date for the District to accept formal contested case letters concerning this application is April 16, 2019. The application is available for review on the District's website [www.haysgroundwater.com](http://www.haysgroundwater.com). To determine if you have standing in this matter, see HTGCD Rules, Section 5.5 located on-line under Regulatory. Mail concerning submittal of a formal contested case letter shall be sent to: HTGCD PO Box 1648, Dripping Springs, TX. 78620

**NOTICE OF PROPOSED AMENDMENT TO THE CITY OF WIMBERLEY ZONING CODE**

Notice is hereby given that the City Council of the City of Wimberley will hold a public hearing and first reading at the Wimberley City Hall on Thursday, April 18, 2019 at 5:30 p.m. on an ordinance amending CHAPTER 9, PLANNING AND DEVELOPMENT REGULATIONS, ARTICLE 9.03, ZONING, OF THE CITY OF WIMBERLEY CODE OF ORDINANCES RELATED TO BED AND BREAKFAST AND VACATION RENTAL LODGING REQUIREMENTS; AND PROVIDING FINDINGS OF FACT; A PENALTY PROVISION; A REPEALING CLAUSE; A SAVINGS AND SEVERABILITY CLAUSE; AN EFFECTIVE DATE; AND PROPER NOTICE AND MEETING. A second reading will be held on Thursday, May 2, 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 ([silloyd@cityofwimberley.com](mailto:silloyd@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.

**NOTICE TO CREDITORS**

Notice is hereby given that original Letters Testamentary for the Estate of Roy Stanley McCammon, Deceased, were issued on March 11, 2019, under Cause No. 19-0078-P, pending in the County Court at Law No. 1, Hays County, Texas, to Jean Ann McCammon Boozer, Executor.

Claims may be presented in care of the attorney for the estate, addressed as follows:

Representative,  
Estate of Roy Stanley McCammon,  
Deceased  
c/o Law Offices of John Burns  
1704 Grassy Field Road  
Austin, TX 78737

All persons having claims against this estate, which is currently being administered, are required to present them within the time and in the manner prescribed by law.

DATED March 25, 2019.

**Public Notice**

STATE OF NEW MEXICO  
COUNTY OF LINCOLN  
TWELFTH JUDICIAL DISTRICT

FONAY LAND COMPANY, LLC,  
A New Mexico Limited Liability Company

Plaintiff,

v. Cause No. D-1226-CV-2018-00315

SCOTT J. STORM,  
as Domiciliary Foreign Personal Representative  
of the Estate of Lynn W. Storm, deceased.

SCOTT D. HARRINGTON, and

SUSAN W. FREDERICKSON

Defendants.

**SUMMONS AND NOTICE OF PENDENCY OF SUIT**

TO: Scott J. Storm:

**GREETINGS:**

YOU are hereby notified that there has been filed in the District Court of Lincoln County, New Mexico, in the above entitled cause of action, a complaint for breach of contract, negligent misrepresentation, and specific performance, wherein Fonay Land Company, LLC is the Plaintiff and you are the Defendant. You are further notified that unless you enter your appearance in said cause on or before thirty (30) days of the date of the last publication of this notice, judgment by default will be rendered in said cause against you for failing to appear, and the Plaintiff will apply to the Court for the relief demanded in the Complaint.

Hennighausen & Olsen, L.L.P. (A.J. Olsen and Olivia R. Mitchell) are attorneys for the Plaintiff and their office address is 604 North Richardson Avenue, Roswell, New Mexico 88201 (P.O. Box 1415, Roswell, New Mexico 88202-1415); telephone number 575-624-2463.



LINCOLN COUNTY DISTRICT COURT CLERK  
By: */s/ Gloria Lamay*

Respectfully submitted,

HENNINGHAUSEN & OLSEN, L.L.P.

By: */s/ A.J. Olsen*  
A.J. Olsen, Esq.  
Olivia R. Mitchell, Esq.  
Jonathan E. Roehlke, Esq.  
Counsel for Fonay Land Company, LLC  
P.O. Box 1415  
Roswell, NM 88202-1415  
(575) 624-2463 (Telephone)  
(575) 624-2878 (Fax)  
[sjolsen@h2olawyers.com](mailto:sjolsen@h2olawyers.com)  
[omitchell@h2olawyers.com](mailto:omitchell@h2olawyers.com)  
[jroehlke@h2olawyers.com](mailto:jroehlke@h2olawyers.com)

**General Help Wanted**

**New Ownership**

**New Wage Scale plus benefits**

LVN \$24.00 / 1,500.00 sign on bonus

CNA \$16.00 / \$2,000.00 sign on bonus

CMA \$18.00 / \$1,000.00 sign on bonus

Hospitality Aides \$10.00 - \$13.00

\$1000 Scholarship bonus

Apply in confidence to  
[crobinson93@msn.com](mailto:crobinson93@msn.com)

Attention Connor Robinson EOE

**General Help Wanted**

THE BHRP is now hiring for the following PT & seasonal positions. Park & Nature Camp Supervisors, Park

**General Help Wanted**

NEED MULTIPLE people, FT and/or PT work in the Wimberley/San Marcos area. Applicants must have reliable transportation and

**General Help Wanted**

**DRIPPING SPRINGS WATER SUPPLY CORP.**

**Dripping Springs Water Supply**

Utility Service Worker position available. For job description and salary please contact our office (512)-858-7897  
[tracy@dripping springswater.com](mailto:tracy@dripping springswater.com)

**General Help Wanted**

**CSA III - Residential Positions**  
Serving Comal or Hays County

Seeking positive, energetic individuals to work closely with our intellectual and developmentally disabled population. We have openings at both the Comal County and the Hays County Group Homes! Applicants must have good written and verbal communication as well as time management skills.

Requirements: 'H.S. Diploma/GED, Valid Texas Driver's License and Current Automobile Insurance' Previous Experience a plus

\$10.95 per hour w/ Excellent Benefits

Apply online @ [www.hillcountry.org](http://www.hillcountry.org)

Hill Country MHDD Centers is an EOE

**General Help Wanted**

**Journalism Jobs**

MCM, LLC has numerous openings in the Central Texas area for: reporters, editors, and advertising sales people in 7 Waco area community newspapers. Experience and education is important, and a newspaper or advertising sales background are a plus. Interested candidates should email your resume to: [publisher@themexianews.com](mailto:publisher@themexianews.com) or Call Richard Nelson at 254-562-2868

**General Help Wanted**

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

**General Help Wanted**

NOW HIRING The Wimberley Community Center has an opening for a Part-Time Facility



**Garage Sales**

**BETA POP-UP**  
Garage Sale  
Sat, 03/30/2019  
All sort of items up for sale at the Beta Pop-Up Garage Sale: Clothes, furniture, small appliances, books, toys, etc. Bring cash to pick up great bargains. Old Oaks on Blue Hole Road, Wimberley, TX

**14 CREEKSIDE DR WIMBERLEY ESTATE SALE**  
All items must go March 16, 23 & 30. 10:00 am - 2:00 pm

**HUGE GARAGE SALE**

405 Five Acres, two family downsized. Saturday 3/30 8-7 Dry project pieces, vintage items & jewelry, decor, clothes, kitchen.

**MULTI-FAMILY**

garage sale  
Fr 03/29/19 from 8a-3p & Sat 03/30/19 from 8a-2p @ 188 Marigold Ct. in Sierra West, Driftwood, TX 78619. One mile from Hays City Store off FM 150. Look for signs. Lots of great deals & willing to negotiate on most items.

**MOVING SALE**

505 Deer Lake Rd Misc. tools, antique tools, tap & die sets, log splitter, various household items, & horse tack. March 30 & 31st 8:30 - 3:00

**CHAPEL IN THE HILLS GARAGE SALE**

Across from Dairy Queen Friday March 29th 9-4 Saturday March 30th 9-7

Lots of Treasures!



**Estate Sale**

**Estate Sale**

**Estate**



**Land for Sale**

**HISTORIC RACE INVEST OPPORTUNITIES ACRES. OVERLOOK UNDEVELOPED RETAIL, COMMERCIAL CENTER FOR LOT OVER CYPRESS AND OLD SQUAD REDUCE QUICK CALL 830-441**



**Home For Rent**

2 BD 1 bath unit ft.; \$1000; plus utilities; Great view yard, deeded pad for Availab April 1 512-51

**Apartment For Rent**

HALF first full mo 1 BR \$8 2 BR \$93 kitchen upgrades. steel app granite counter Pet frien conven Country Blanco O ments. 5 Ave, Blz 830-83

**2 BED APART**

Tenant paid no pets, 512-71

**Com For**

FOR Small business square cu for food c 1 year del & utilities Call 512-8



**Estate Sale**

**Estate Sale**

**Estate**

**Life Changes**

**Pre-Invoice  
52118-0410**

**San Marcos Daily Record**

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

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

**Customer:** RA0684  
**Phone:** 847-0025  
**Ad No.:** 52118  
**PO Number:**  
**Sales Rep:** Barker, Taffy  
**Bill Date:** 04/10/19  
**Due Date:** 04/17/19

Public Notices	Date	Publication	Cost
<b>Notice of Enactment of Ordinance No. 2019-08</b>	Apr 18, 2019	Wimberley Legal Classifieds	\$34.08
	Days: 1	Total Charges:	\$34.08
		Applied Prepayments/Credits:	\$0.00
		<b>Total Due by 4/17/19:</b>	<b>\$34.08</b>

An ordinance amending Chapter 9, Planning and Development Regulations, Article 9.03, Zoning, of the City of Wimberley Code of Ordinances related to bed and breakfast and vacation rental lodging requirements; and providing findings of fact; a penalty provision; a repealing clause; a savings and severability clause; an effective date; and proper notice and meeting.

**San Marcos Daily Record**

**Detach and return this stub with your payment to:**

**Ad #:** 52118  
**Customer #:** RA0684  
**Customer:** City of Wimberley  
**Bill Date:** 04/10/19  
**Due Date:** 04/17/19  
**Total Due:** \$34.08

**Payment Method:**  Cash  Check # \_\_\_\_\_  
 Visa  M/C  Other: \_\_\_\_\_  
Number: \_\_\_\_\_  
Expiration: \_\_\_\_\_ CVV \_\_\_\_\_  
Name On Card: \_\_\_\_\_  
Signature: \_\_\_\_\_

P.O. Box 1109  
San Marcos, TX 78667

**ORDINANCE NO. 2019-08**

**AN ORDINANCE AMENDING CHAPTER 9, PLANNING AND DEVELOPMENT REGULATIONS, ARTICLE 9.03, ZONING, OF THE CITY OF WIMBERLEY CODE OF ORDINANCES RELATED TO BED AND BREAKFAST AND VACATION RENTAL LODGING REQUIREMENTS; AND PROVIDING FINDINGS OF FACT; A PENALTY PROVISION; A REPEALING CLAUSE; A SAVINGS AND SEVERABILITY CLAUSE; AN EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.**

**WHEREAS**, the City of Wimberley's is a General Law Type A City under the statutes of the State of Texas; and

**WHEREAS**, the Texas Local Government Code authorizes a municipality to adopt zoning regulations designed to accomplish the goals as delineated in Section 211.004 of the Texas Local Government Code and for the purpose of regulating those issues as delineated in Section 211.003 of the Texas Local Government Code; and

**WHEREAS**, the City of Wimberley's City Council appointed a committee to review the City's regulations regarding short term rentals and said committee has met for numerous months regarding the City's short term rental regulations; and

**WHEREAS**, the committee presented its proposed amendments to the City's zoning regulations to the Planning and Zoning Commission; and

**WHEREAS**, the Planning and Zoning Commission debated proposed amendments and held a public hearing regarding the proposed amendments on the \_\_\_ day of \_\_\_\_, 2019 at which all persons were given an opportunity to appear and express their opinion concerning the proposed amendments; and

**WHEREAS**, the Planning and Zoning Commission provided a preliminary report regarding the proposed amendments and recommended approval to the City Council; and

**WHEREAS**, a public hearing was held by the City Council on the \_\_\_<sup>th</sup> day of \_\_\_\_, 2019, on such preliminary report and recommendation at which all persons were given an opportunity to appear and express their opinion concerning the proposed amendments; and

**WHEREAS**, the City Council of the City of Wimberley has determined it to be in the public interest to adopt to the proposed amendments which in its best judgment are intended to promote the orderly development, use, and ongoing management of short term rental properties in order to promote the public health and safety of the community and promote a positive transient lodging experience.

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

**Section 1.** All of the above premises 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.

**Section 2.** The City of Wimberley Code of Ordinances Chapter 9, Article 9.03 is hereby amended as follows with a strike through being a deletion from the Code and an underline being an addition to the Code:

### **General Amendments:**

Except where specifically provided otherwise in this Ordinance:

The phrases “Bed and Breakfast Lodging” and “Bed and Breakfast” shall be replaced throughout the code with the phrase “STR1”

The phrases “Vacation Rental Lodging” and “Vacation Rental” shall be replaced throughout the Code with the phrase “STR2”

### **Amendment Section 9.03.005 Definitions**

~~Bed and breakfast lodging. A residential facility, otherwise permitted in a zoning district authorized by this code as a conditional use permit, that is offered for rental and the owner or the owner's designated non-renting representative occupies a facility located on the property at the time the residential facility is being rented. All residential facilities of this type located on or within the property or properties identified in the conditional use permit shall be considered as constituting a single bed and breakfast lodging. All bed and breakfast lodging shall comply with section 9.03.141 (bed and breakfast lodging requirements), and all applicable laws and regulations.~~

~~Vacation rental. A residential facility otherwise permitted in a zoning district authorized by the approval of a conditional use permit that is offered for rental for a period not to exceed thirty (30) days. The owner or the owner's designated representative shall not be required to occupy the facility at the time the facility is being rented. All residential facilities of this type located on or within the property or properties identified in the conditional use permit shall be considered as constituting a single vacation rental. All vacation rentals shall comply with section 9.03.142 (vacation rental lodging requirements), and all applicable laws and regulations.~~

Short Term Rental One (STR1), formerly known as a “Bed and Breakfast”, is an owner occupied, owner present property used for transient lodging for stays of 30 consecutive days or less.

Short Term Rental Two (STR2), formerly known as a “Vacation Rental”, is an owner non-occupied, owner not-resident property used for transient lodging for stays of 30 consecutive days or less.

STR, either and STR1 or an STR2

Transient lodging is defined as a property use which has paying guests, tenants, and/or renters of a STR property who stay 30 or less consecutive days in the subject property.

### **Amendment Division 3. District Regulations**

#### Section 9.03.070 Residential Use Prohibitions

Except as otherwise provided for in this Code rental of a residence or residential structure of 30 days or less is prohibited in RA, R-1, R-2, R-3, R-4, R-5, MF-1, MF-2 and MH.

### **Section 9.03.141 is hereby deleted in its entirety and replaced with the following:**

#### Section 9.03.141 Short Term Rentals

(a) Purpose. The requirements of these regulations are designed and intended to promote the orderly development, use, and ongoing management of STR1 and STR2 properties, collectively referred to within this Code as “STR”, to promote the public health and safety of the community and promote a positive transient lodging experience. In addition, because short term rentals are permitted in and near residential zoning districts these regulations are determined to be the minimum necessary to mitigate any possible negative impact of such uses on any residential areas.

(b) For an STR located in a residentially zoned area the residential look, feel, and character of STR properties shall be maintained and the STR owners are prohibited from negatively intruding upon the adjacent neighbors and community atmosphere.

~~(c) A conditional use permit (CUP), legislatively approved pursuant to Section 9.03.255 and this Section, shall be required for all transient lodging approved after the enactment of these regulations, shall be valid for a period of one year from approval and shall run with the land. The date of approval shall be specifically provided for in the enacting ordinance.~~

~~(d) The renewal of a previously legislatively approved CUP, whether the CUP was approved before or after the enactment of these regulations, may be approved administratively for additional one year periods pursuant to subsection (i) of this Section. All ordinances legislatively approving a CUP shall include language authorizing administrative renewal upon compliance with subsection (k) of this Section.~~

~~(e) All currently existing legal nonconforming transient lodging uses are hereby required to comply with the administrative approval process pursuant to subsection (i) of this Section by the deadline established in subsection (k) of this Section. Compliance therewith shall result in the issuance of an administrative CUP which shall be valid for a period of one year from the date of issuance. Failure to comply with this subsection shall result in the revocation of any existing nonconforming rights to use a property as transient lodging.~~

(fc) Refund of application fees. An applicant for an initial STR CUP who withdraws his/her application prior to presentation at the Planning and Zoning commission is entitled to a refund of all but one half of the applicant's application fee. No fees shall be refunded if the CUP application is withdrawn after presentation to the Planning and Zoning commission.

(gd) In addition to the CUP considerations provided for in Section 9.03.251(b) the Planning and Zoning Commission and the City Council shall consider the following in the approval of a STR:

- (1) Owner requested versus permitted Planning and Zoning uses in the applicable zoning district;
- (2) The impact of potential transient lodging activity on any surrounding residential properties;
- (3) The area and the impact of STR lodging activities on the area;
- (4) The incremental environmental impact of the STR;
- (5) The proposed property occupancy relative to the size of the property;
- (6) Setbacks, encroachments, and proximity to any abutting residential structures;
- (7) Privacy fencing, landscaping, and natural noise barriers on the STR property that are appropriate for the protection of any abutting uses;
- (8) Impact analysis and plan of occupant access to waterways and other environmentally sensitive areas;
- (9) Vehicle access, on-site parking, and the number of parking spaces available relative to maximum acceptable occupancy; and
- (10) Any other factors in the City's Comprehensive Plan deemed appropriate and consistent with the City's zoning authority.

(he) In addition to any conditions imposed as part of the approved CUP the following regulations shall be applicable to an STR lodging facilities and shall be incorporated into any legislatively approved CUP:

- (1) The STR CUP shall terminate and be considered abandoned if and when there is evidence of no transient lodging rental activity, based in part on the state occupancy tax reports, for a period of nine (9) consecutive months. The burden is on the property owner to prove the property has been in continuous use.

(2) For STR1 property, the owner or the owner's designated representative shall occupy the property when the property is rented and in use as a transient lodging facility.

(3) Parking shall comply with the base zoning district except as provided in this subsection. On-street parking is prohibited in RA, R-1, R-2, R-3, R-4, R-5, MF-1, MF-2 and MH zoning districts and parking in said zoning districts shall be subject to the following requirements:

(1) STR 1. Two (2) parking spaces are required. Required off-street parking shall be provided on the same site as the use it is to serve. Parking areas shall be clearly identified on the property and adequate maneuvering space shall be provided for vehicle ingress and egress. In Planning Areas I and II, all vehicle parking shall be on a suitable parking surface as determined by the City. In all other planning areas, all off-street parking shall be surfaced in accordance with the parking lot surfacing requirements in the city's regulations. No parking shall be permitted on grass, within landscaped areas, or on other unimproved surfaces.

(2) STR 2. One (1) parking space is required. Required off-street parking shall be provided on the same site as the use it is to serve. Parking areas shall be clearly identified on the property and adequate maneuvering space shall be provided for vehicle ingress and egress. In Planning Areas I and II, all vehicle parking shall be on a suitable parking surface approved by the city. In all other planning areas, all off-street parking shall be surfaced in accordance with the parking lot surfacing requirements in the city's regulations. No parking shall be permitted on grass, within landscaped areas, or on other unimproved surfaces.

~~(i) Administrative Renewal of CUP~~

~~(1) The City Administrator shall renew a CUP upon application, payment of any applicable fee and evidence of compliance with the following:~~

- ~~a. For STR1 property, attestation that the owner or the owner's designated representative occupies the property when the property is rented and in use as a transient lodging facility.~~
- ~~b. Attestation that any applicable parking requirements are satisfied.~~
- ~~c. Attestation of compliance with all conditions provided for in any ordinance approving the original CUP.~~
- ~~d. Attestation of compliance with all applicable base zoning district regulations.~~

~~(2) Should any CUP, whether approved legislatively or administratively, fail to be renewed pursuant to this subsection prior to thirty (30) days after its date of termination the CUP shall be considered revoked and the property owner shall be required to apply for a new CUP through the legislative process.~~

~~City Staff shall develop an application form, permit and timeline for processing administrative renewals of CUPs and existing legal nonconforming transient lodging.~~

(j) The Council recognizes orderly and accurate recordkeeping of STR activity is essential to the successful enforcement of this ordinance and requires the following:

(1) City Staff is directed to add a GIS layer through the City's electronic mapping software that identifies the locations of all approved CUP STR locations and unapproved CUP STR locations for which the City has information.

(2) City Staff is directed to create a database for recording all complaints received by the City that allege a violation of state and/or local law and/or violation of a CUP by the owner, operator, or renter of an STR within the City limits. Each entry in the complaint database should include, at a minimum, the following information:

(A) The location of the STR;

(B) The nature of the alleged violation;

(C) The date of the alleged violation;

(D) A notation indicating how the complaint was resolved.

(3) The GIS layer and the complaint database described by this section should be updated as necessary and shall be made available to members of the public as required by the Texas Public Information Act.

(4) Members of the public, including individuals who reside adjacent to or in the vicinity of an STR, are encouraged to promptly report complaints to the City.

~~(k) All currently existing legal nonconforming transient lodging uses, and existing CUPs shall apply for the appropriate STR use designation through the administrative renewal process as provided for under subsection (i) of this Section by June 30, 2020 and shall be required to annually renew their CUPs pursuant to these regulations.~~

**Section 9.03.142 is deleted in its entirety.**

**Section 3.** The penalty provision of the City Code of Ordinances Chapter 1, Section 1.01.009 shall be applicable to any violation of this Ordinance.

**Section 4.** All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

**Section 5.** Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part of provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinances as a whole.

**Section 6.** This Ordinance shall take effect immediately from and after its passage and the publication as provided by law.

**Section 7.** It is hereby officially found and determined that the meeting at which this Ordinance 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.

**PASSED AND APPROVED First Reading** this \_\_day of\_\_\_\_\_, 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 \_\_\_\_\_day of\_\_\_\_\_, 2019, by a vote of (Ayes) to (Nays) (Abstain) vote of the City Council of the City of Wimberley, Texas.

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Susan B. Jagers, Mayor

ATTEST:

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Laura J. Calcote, City Secretary

APPROVED AS TO FORM:

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City Attorney





**AGENDA ITEM:** SPFI – Financial Advisor  
**SUBMITTED BY:** Shawn Cox, City Administrator  
**DATE SUBMITTED:** April 15, 2019  
**MEETING DATE:** April 18, 2019

## AGENDA FORM

### ITEM DESCRIPTION/SUMMARY

On September 25, 2012, the City Council selected Specialized Financial Services, Inc. (SPFI) as the City’s Financial Advisor. Since 2012, the City has utilized SPFI for the issuance of the City’s Combination Tax and Surplus Revenue Anticipation Notes, Series 2013, and Sewer System Revenue Bonds, Series 2017.

As a condition of the Texas Water Development Board (TWDB) approved change in scope for the Central Wimberley Wastewater Project, the City must exchange the City’s Sewer System Revenue Bonds, Series 2017 for Exchange Refunding Bonds, Series 2019.

The City’s Bond Counsel (Stephanie Leibe, with Norton Rose Fulbright) and Financial Advisor (Jennifer Ritter, with SPFI) have discussed with the TWDB what will be needed for the issuance of the City’s Exchange Refunding Bonds, Series 2019. Based on these discussions SPFI has proposed a reduced fee of \$15,943.75 for their services. This is a 50% reduction from the last issuance.

In adopting the FY 2019 Annual Budget, Council included \$100,000 in the Wastewater Fund (202-04-6374, Contract Services) for Grant/Loan Management Services. The City, since the adoption of the FY 2019 Budget has chosen to provide these services in house, freeing the budget \$100,000 for other uses. The fees associated with SPFI’s services would be paid from this line item.

For consideration, is the utilization of SPFI as required for the issuance of the City’s Exchange Refunding Bonds, Series 2019.

### REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

**FINANCIAL**

Budgeted Item	<input type="checkbox"/>	Original Estimate/Budget:	\$
Non-budgeted Item	<input checked="" type="checkbox"/>	Current Estimate:	\$ 15,943.75
Not Applicable	<input type="checkbox"/>	Amount Under/Over Budget:	\$

**STAFF RECOMMENDATION**

The City Administrator recommends utilizing the City’s Financial Advisors, Specialized Financial Services, Inc., as required by the Texas Waster Development Board for the issuance of the City’s Exchange Refunding Bonds, Series 2019.

**ATTACHMENT(S)**

- SPFI Financial Advisory Services Agreement
- SPFI Fee for 2019 TWDB Refunding Bonds

**From:** [Jennifer Ritter](#)  
**To:** [Shawn Cox](#)  
**Subject:** Fee for 2019 TWDB Refunding Bonds  
**Date:** Thursday, April 11, 2019 10:46:24 AM

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Shawn,

To memorialize our conversation, we are agreeing to take a 50% reduction in fee to assist the City in refunding it's 2017 Revenue Bonds through the issuance of replacement bonds in 2019.

The reduced fee would be \$15,943.75, representing a reduction by half from the contract fee of \$31,887.50 for \$5,255,000 in bonds.

This fee represents delivery of the following requested items from TWDB:

1. Preparation of a new private placement memorandum (with related exhibits);
2. Preparation of a principal repayment schedule with interest rate notes;
3. Preparation of a new amortization schedule (principal and interest);
4. Preparation of forms showing the new net effective interest rate;
5. Preparation of forms showing the new weighted average maturity for the bonds;
6. Application for CUSIPS and coordination with paying agent; and
7. Preparation of a closing memorandum (not listed by TWDB but required for all bond issues.)

This represents a one-time exception to the City's contract with our firm. If additional expenses (for example, mileage to attend meetings or shipping costs for documents) are required, those expenses will be billed on an actual cost basis.

Sincerely,



**Jennifer Ritter**  
**Managing Director**  
**Specialized Public Finance Inc.**  
**248 Addie Roy Road, Suite B-103**  
**Austin, Texas 78746**  
**512/275-7304**  
**[jennifer@spfmuni.com](mailto:jennifer@spfmuni.com)**

## FINANCIAL ADVISORY SERVICES AGREEMENT

This Financial Advisory Services Agreement (the “Agreement”) is made and entered into by and between the City of Wimberley, Texas (“Issuer”) and Specialized Public Finance Inc. (“SPFI”) effective as of the date executed by the Issuer as set forth on the signature page hereof.

### WITNESSETH:

WHEREAS, the Issuer will have under consideration from time to time the authorization and issuance of indebtedness in amounts and forms which cannot presently be determined and, in connection with the authorization, sale, issuance and delivery of such indebtedness, Issuer desires to retain an independent financial advisor; and

WHEREAS, the Issuer desires to obtain the professional services of SPFI to advise the Issuer regarding the issuance and sale of certain evidences of indebtedness or debt obligations that may be authorized and issued or otherwise created or assumed by the Issuer (hereafter referred to collectively as “Debt”) from time to time during the period in which this Agreement shall be effective; and

WHEREAS, SPFI is willing to provide its professional services and its facilities as financial advisor in connection with all programs of financing as may be considered and authorized by Issuer during the period in which this Agreement shall be effective.

NOW, THEREFORE, the Issuer and SPFI, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, do hereby agree as follows:

### SECTION I DESCRIPTION OF SERVICES

Upon the request of the Issuer, SPFI agrees to perform the financial advisory services stated in the following provisions of this Section I; and for having rendered such services, the Issuer agrees to pay to SPFI the compensation as provided in Section VI hereof.

1. Financial Planning. Provide financial planning services related to Debt plans and programs.
2. Debt Elements. Provide recommendations regarding Debt under consideration, including such elements as timing, structure, security provisions, and such other provisions as may be appropriate.
3. Method of Sale. Make a recommendation as to an appropriate method of sale, including but not limited to competitive sale, negotiated sale or private/limited offering.
4. Price Fairness. Advise the Issuer as to the fairness of the price offered by the underwriters.

5. Offering Documents. Participate in and direct, as appropriate, the preparation of the offering documents and/or assist bond counsel with same.
6. Auditors. Coordinate verification by an independent auditor of any calculations incident to the Debt, as required.
7. Printing. Coordinate all work incident to printing of the offering documents and other documents required by Issuer.
8. Closing. Provide the Issuer a post sale/closing booklet or update for the Debt and other outstanding debt, as needed.

## **SECTION II OTHER AVAILABLE SERVICES**

In addition to the services set forth and described in Section I herein above, SPFI agrees to make available to the Issuer the following services, when so requested by the Issuer and subject to the agreement by Issuer and SPFI regarding the compensation, if any, to be paid for such services, it being understood and agreed that the services set forth in this Section II may require further agreement as to the compensation to be received by SPFI for such services:

1. Call Defeasance and Refunding. Evaluate and advise on exercising any call defeasance and/or refunding of any outstanding Debt.
2. Capital Program Modeling. Evaluate and advise on the development of any capital improvements programs.

## **SECTION III CONTINUING DISCLOSURE**

It is understood and agreed that the Issuer, in connection with the sale and delivery of Debt, will be required to comply with certain continuing disclosure undertakings, including preparation and submission of annual reports (the “annual reports”) and reporting of certain specified material events (the “material events”) pursuant written undertakings of the Issuer and in accordance with the provisions of Securities and Exchange Commission Rule 15c2-12, as amended (the “Rule”). SPFI shall provide continuing disclosure services on the terms and conditions, for the time period and for the compensation set forth herein.

1. This Agreement shall apply to all Debt delivered subsequent to the effective date of the continuing disclosure undertakings of Issuer and as specified in the Rule, to the extent that any particular issue of Debt does not qualify for exceptions to the continuing disclosure requirements of the Rule.
2. SPFI agrees to perform annual reporting and material event notification duties required by the undertakings of Issuer and the Rule.
3. The fees of SPFI for providing the foregoing continuing disclosure services shall be negotiated annually (not to exceed \$1,000 per similarly-secured type of Debt). The fees of SPFI for providing material event notification services shall be negotiated separately at the time such notifications may be required.

#### **SECTION IV TERM OF AGREEMENT**

This Agreement shall become effective as of the date executed by the Issuer as set forth on the signature page hereof and, unless terminated by either party pursuant to Section V of this Agreement, shall remain in effect thereafter for a period of three (3) years from such date. Unless SPFI or Issuer shall notify the other party in writing at least thirty (30) days in advance of the applicable anniversary date that this Agreement will not be renewed, this Agreement will automatically renew on the third anniversary of the date hereof for an additional one (1) year period and thereafter will automatically renew on each anniversary date for successive one (1) year periods under the same terms as the initial 3 year period.

#### **SECTION V TERMINATION**

This Agreement may be terminated with or without cause by the Issuer or SPFI upon the giving of at least thirty (30) days' prior written notice to the other party of its intention to terminate. In the event of such termination, it is understood and agreed that only the amounts due SPFI for services provided and expenses incurred to the date of termination will be due and payable. No penalty will be assessed for termination of this Agreement.

#### **SECTION VI COMPENSATION AND EXPENSE REIMBURSEMENT**

The fees due to SPFI for the services set forth and described in Section I of this Agreement with respect to each issuance of Debt during the term of this Agreement shall be calculated in accordance with the schedule set forth on Appendix A attached hereto. Unless specifically provided otherwise on Appendix A or in a separate written agreement between Issuer and SPFI, such fees, together with any other fees as may have been mutually agreed upon and all expenses for which SPFI is entitled to reimbursement, shall become due and payable concurrently with the delivery of the Debt to the purchaser.

**SECTION VII  
MISCELLANEOUS**

1. Choice of Law. This Agreement shall be construed and given effect in accordance with the laws of the State of Texas. Proper venue for any legal action arising out of this Agreement shall be Hays County, Texas.
  
2. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the Issuer and SPFI, their respective heirs, executors, personal representatives, successors and assigns; provided however, neither party hereto may assign or transfer any of its rights or obligations hereunder without the prior written consent of the other party.
  
3. Entire Agreement. This instrument contains the entire agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this Agreement shall be of no force or effect except for a subsequent modification in writing signed by all parties hereto.

Specialized Public Finance Inc.

By: \_\_\_\_\_  
Managing Director

By: \_\_\_\_\_  
Managing Director

City of Wimberley, Texas

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

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

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

ATTEST:

\_\_\_\_\_  
Title

## APPENDIX A

### Fee Schedule:

The first issue for the City will be performed for a financial advisory fee not to exceed \$15,000; thereafter the following will be in effect:

\$9,000 for the first	\$1,000,000 of bonds issued
Plus \$4.00 per \$1,000 for the next	\$4,000,000 of bonds issued
Plus \$2.00 per \$1,000 for the next	\$5,000,000 of bonds issued
Plus \$1.00 per \$1,000 for the next	\$40,000,000 of bonds issued
Plus \$0.75 per \$1,000 thereafter	

The above charges shall be multiplied by 1.25 times for the completion of an application to a federal or state government agency or for the issuance of revenue bonds or refunding bonds, reflecting the additional services required.

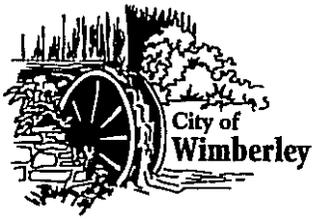
The charges for ancillary services, including computer structuring and official statement printing, shall be levied only for those services which are reasonably necessary in completing the transaction and which are reasonable in amount, unless such charges were incurred at the specified direction of the Issuer.

*The payment of charges for financial advisory services in Section I of the foregoing Agreement shall be contingent upon the delivery of bonds and shall be due at the time that bonds are delivered. The payment of charges for services described in Section II of the foregoing Agreement shall be due and payable in accordance with the mutual agreement therefor between SPFI and Issuer.*

The Issuer shall be responsible for the following expenses, if and when applicable:

- Bond counsel
- Bond ratings
- Computer structuring (pursuant to SPFI internal fee schedule)
- Continuing Disclosure, as per Section III
- Credit enhancement
- Verification agent
- Official statement preparation
- Official statement printing and distribution
- Paying agent/registrar/trustee
- Travel related expenses (mileage, airfare, hotel, etc.) as requested
- Underwriter and underwriters' counsel
- Delivery, copy, conference call charges and other miscellaneous charges

*The payment of reimbursable expenses that SPFI has assumed on behalf of the Issuer shall NOT be contingent upon the delivery of bonds and shall be due at the time that services are rendered and payable upon receipt of an invoice therefor submitted by SPFI.*



**AGENDA ITEM:** Tree Ordinance  
**SUBMITTED BY:** Shawn Cox, City Administrator  
**DATE SUBMITTED:** April 15, 2019  
**MEETING DATE:** April 18, 2019

## AGENDA FORM

### ITEM DESCRIPTION/SUMMARY

At the November 15, 2018 Council Meeting, Council directed staff to draft a tree ordinance and have it ready for review in March 2019. A draft of the proposed ordinance was originally presented to Council on March 21, 2019. Based on the input received, language regarding “Heritage Trees” has been added. Additionally, updates have been made to the “cash-in-lieu” language of the draft ordinance. The ordinance will add Article 4.12-Landscaping and Tree Preservation to Chapter 4-Building Regulations.

### 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 is requesting input on recommended changes to the draft ordinance.

## ARTICLE 4.12 LANDSCAPING AND TREE PRESERVATION

### Division 1. Generally

#### Sec. 4.12 Title

This article shall be commonly cited as the landscape ordinance.

#### Sec. xxx Purpose

(a) Generally. The purpose of this article is to provide for the preservation of native trees, prevent the clear-cutting of land, and provide for minimum landscaping and screening requirements, in recognition that trees, landscaping, screening, and buffering protect the health and welfare of the community, while addressing the water conservation and drainage issues particular to the Hill Country region. The purpose of this article is also to enhance the community's ecological, environmental, and aesthetic qualities.

(b) Health, welfare, and general well-being. Preserving and improving the natural environment, and maintaining a working ecological balance, are of increasing concern to the city. The fact that the proper use of landscape elements can contribute to the processes of air purification, oxygen regeneration, water absorption, water purification, and noise, glare, and heat abatement as well as the preservation of the community's aesthetic qualities indicates that the use of landscape elements is of benefit to the health, welfare, and general well-being of the community, and therefore it is proper that the appropriate use of such elements be required.

(c) Water conservation and drainage. The city experiences frequent droughts and is characterized by thin-soiled rock formations; therefore, it is the purpose of this article to encourage the use of drought-resistant vegetation and landscaping that minimizes runoff and erosion.

#### Sec. xxx Scope

This article applies to all commercial property within the incorporated municipal boundaries (i.e., city limits) for which site plan approval by the city is required under the city's Code of Ordinances. This article applies to actions taken after the date of enactment.

#### Sec. xxx Definitions

(a) Rules of interpretation. Words and phrases used in this article shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the Code of Ordinances, shall be given the meanings set forth in the code. Words and phrases not defined in the Code of Ordinances shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense, words in the plural number shall include the singular number (and vice versa), and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

(b) Specific definitions.

City administrator. The chief administrative officer of the city. The term shall also include the deputy city administrator.

City council. The governing body of the city.

City of Austin Environmental Criteria Manual. The document promulgated by the City of Austin, which is commonly used throughout the region and is widely regarded as the standard in the development community, as may be amended.

City of Austin Grow Green Guide. The document promulgated in part by the City of Austin, entitled "Native and Adapted Landscape Plants: An Earthwise Guide for Central Texas," as may be amended.

City permit. A city license, certificate, approval, registration, consent, permit, or other form of authorization required by a city ordinance, regulation, or rule in order to develop, construct, and operate the improvements on the property.

Code. The Code of Ordinances enacted by the city, as may be amended from time to time.

DBH (diameter at breast height). The tree trunk diameter of an existing tree measured in inches at a height of 4.5 feet above the ground. If a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point

beneath the split.

Designated tree. Any of the following:

- (1) A hardwood tree having a trunk of eight (8) inches in caliper or greater measured at DBH;
- (2) A multi-trunked hardwood tree having a total trunk DBH of thirty (30) inches or more (not counting trunks less than eight (8) inches in diameter); or
- (3) A cluster of hardwood trees within a ten-foot radius circle having a total trunk DBH of forty (40) inches or more (not counting trunks less than eight (8) inches in diameter).

Escrow. A deposit of a cash bond with the city in accordance with this article.

Extreme drought classification. A D3 classification of drought intensity provided by the National Drought Mitigation Center, with D1 being the least intense and D4 being the most intense. D3 classification, extreme drought areas, result in major crop/pasture losses and widespread water shortages or restrictions. The National Drought Mitigation Center must be consulted to determine the classification for the region.

Heritage Tree. A “Heritage Tree” means a tree that has a diameter of twenty-four (24) inches or more, measured four and one-half (4 ½) feet above natural grade.

Impervious cover. Roads, parking areas, buildings, swimming pools, rooftop landscapes, and other construction limiting the absorption of water by covering the natural land surface; this shall include, but not be limited to, all streets and pavement within the development.

Landscape architect. One whose profession is the decorative and functional alteration and planting of grounds, especially at or around a building site.

Landscaping. Consists of introduced vegetation, as well as related improvements to a lot, including, but not limited to, forming and berming, irrigation systems, landscape subsurface drainage systems, site furnishings, and nonstructural retaining walls.

Natural area. An area where the naturally grown landscaping is left primarily undisturbed, except for the removal of poison ivy, greenbrier, and similar vegetation, oak wilt removal and/or prevention measures, and allowing for maintenance of the trees to maintain vigorous growth.

Owner. A person with legal control over property in question.

Person. A human individual, corporation, agency, unincorporated association, partnership, or sole proprietorship, or other legal entity.

TCEQ. The state commission on environmental quality, or its successor agency.

### **Sec. xxx Applicability**

This article applies to all new commercial development requiring site plan approval subject to zoning requirements. All properties going through redevelopment through extension, reconstruction, resurfacing, or structural alteration must come into compliance. Site plan approval shall be conditioned on compliance with this article.

### **Sec. xxx Landscaping fund**

A fund is hereby created in which any cash-in-lieu paid to the city pursuant to the mandates of this article shall be deposited. The fund may be drawn upon by the city to implement landscaping improvements on city land and city controlled rights-of-way.

### **Sec. xxx Damaging or removing trees**

No person shall damage or remove trees in violation of this article.

### **Sec. xxx Violations**

It shall be unlawful for any person to violate this article.

### **Sec. xxx Enforcement; penalties**

(a) Compliance. Violators of this article will be required to come into compliance within sixty (60) days, unless a variance has been approved by the city. Compliance with this article may be grounds for withholding of other related pending permits for the project by the city.

(b) Enforcement. The city shall have the power to administer and enforce the provisions of this article as may be required by governing law. Any person violating any provision of this article is subject to a stop work order, suit

for injunctive relief, and/or prosecution for criminal violations. Any violation of this article is hereby declared to be a nuisance. Any violation of this article may serve as grounds to withhold or delay issuance of other permits and revocation of a certificate of occupancy.

(c) Criminal penalty. Any person violating any provision of this article shall, upon conviction, be fined a sum not exceeding two thousand dollars (\$2,000.00) to be deposited in the landscaping fund. Each day that a provision of this article is violated shall constitute a separate offense. An offense under this article is a misdemeanor.

(d) Civil remedies. Nothing in this article shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this article and to seek remedies as allowed by law, including but not limited to the following:

(1) Injunctive relief. Injunctive relief to prevent specific conduct that violates this article or to require specific conduct that is necessary for compliance with this article;

(2) Civil penalty. A civil penalty up to five hundred dollars (\$500.00) a day to be deposited in the landscaping fund, when it is shown that the defendant was actually notified of the provisions of this article and after receiving notice committed acts in violation of this article or failed to take action necessary for compliance with this article, and other available relief; and

(3) Stop work order. In the event work is not being performed in accordance with this article, the city shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

## **Division 2. Standards**

### **Sec. xxx Street trees**

(a) Nonresidential street tree requirements. At least one (1) required tree, shall be planted adjacent to or near the street right-of-way for each twenty-five (25) feet, or fraction thereof, of linear street frontage. Trees shall be planted between the street right-of-way and any horizontal and vertical improvements. The required number of trees need not be placed uniformly, but may be clustered in groups.

(b) Trees planted shall be a minimum four (4) inch DBH, staked, and wrapped. Small trees/large shrubs trees shall be a minimum two (2) inch DBH, staked, and wrapped.

(c) Trees with deep roots may be planted in the area between the sidewalk and road if approved by the city administrator, or designee. Trees of species whose roots are known to cause damage to public roadways or other public works are prohibited.

### **Sec. xxx Landscape buffers**

(a) Landscape buffer planting requirements.

(1) All plant material shall be of native or adapted species.

(2) All new proposed shade trees shall be a minimum of 4 inches in diameter.

(3) All proposed ornamental trees shall be a minimum of 2 inches in diameter.

(4) All large shrubs shall be a minimum of 5-gallon container size and small shrubs/groundcovers a minimum of 1-gallon container size.

(b) Landscape buffer spacing requirements. The following landscape buffer spacing requirements shall apply to all designated landscape buffers:

(1) Shade trees (such as Live Oak or Cedar Elm). One per 50' of buffer frontage.

(2) Ornamental trees (such as Crape Myrtle or Desert Willow). One per 25' of buffer frontage.

(3) Large shrubs, five-gallon (such as Wax Myrtle, DW Yaupon, or Agarita). One per 6' of buffer frontage.

(4) Small shrubs/groundcovers, one-gallon (such as Lantana or Liriope). One per 3' of buffer frontage.

(c) Landscape buffer widths. The following landscape buffer width requirements shall apply to all designated landscape buffers and shall be measured from the edge of the right-of-way:

	<b>At Arterial Roadways</b>	<b>At Collector Roadways</b>
O1-O2	Twenty-five feet (25')	Twenty-five feet (25')
C1-C3	Twenty-five feet (25')	Twenty-five feet (25')
HC	Fifty feet (50')	Fifty feet (50')
I1-I2	Fifty feet (50')	Fifty feet (50')
AS/S	Twenty-five feet (25')	Twenty-five feet (25')
L1-L2	Twenty-five feet (25')	Twenty-five feet (25')
IP	Fifty feet (50')	Fifty feet (50')
PPU	Fifty feet (50')	Fifty feet (50')
PR1-PR2	Twenty-five feet (25')	Twenty-five feet (25')
PF	Fifty feet (50')	Fifty feet (50')
NS	Twenty-five feet (25')	Twenty-five feet (25')
WPDD	Varies	Varies
RR-1	Twenty-five feet (25')	Twenty-five feet (25')
VI	Twenty-five feet (25')	Twenty-five feet (25')
SC	Twenty-five feet (25')	Twenty-five feet (25')
MF1-MF2	Twenty-five feet (25')	Twenty-five feet (25')

(d) Landscape buffer vegetation. The following landscape buffer vegetation requirements shall apply to all designated landscape buffers:

This buffer area shall contain either native vegetation in the form of trees and bushes left in their natural, undisturbed condition, or, if no such native vegetation exists, shall consist of landscaping in conformance with this article. If the area consists of landscaped plantings, maintenance of such plantings shall be the sole responsibility of the developer.

**Sec. xxx Landscape material**

All trees, plants, and vegetation shall comply with the City of Austin “Grow Green” recommended plant guide. Invasive plants in this guide are specifically prohibited.

**Sec. xxx Landscape plan and tree survey submittal**

A landscape plan and tree survey shall be submitted to the city with the proposed site plan. The landscape plan shall comply with the landscape requirements. The landscape plan shall be signed and sealed by a landscape architect licensed by the state. The existing tree survey should be signed and sealed by a surveyor licensed by the state.

**Sec. xxx Parking area landscaping**

(a) Parking lots and all vehicular parking and maneuvering areas, excluding driveways behind buildings, shall contain areas constructed, planted, and maintained as landscaped islands, peninsulas, or medians.

- (b) The minimum total area in landscaped islands, peninsulas, or medians in the parking lots in front of buildings shall be ninety (90) square feet for each twelve (12) parking spaces.
- (c) One tree is required for every six (6) parking spaces. Tree preservation is encouraged, thus one (1) existing tree that is at four (4) inches DBH shall count for two (2) new trees.
- (d) No parking space shall be located further than fifty (50) feet from a landscaped island, peninsula, median, or tree. They shall be located evenly through the parking areas; however, the location of landscaped islands, peninsulas, and medians may be adjusted to accommodate existing trees or other natural features.
- (e) Landscape terminal islands (end islands) shall be located at the end of all parking modules in a configuration to allow for turning radii of intersecting aisles to protect parked vehicles, provide for visibility, confine moving traffic to aisles and driveways, and provide space for landscaping. Medium and tall shrubs are prohibited on internal islands to maintain visibility.
- (f) All landscaped islands shall have curbs except when utilizing low impact development techniques to capture and utilize runoff for irrigation purposes.
- (g) Paving over the critical root zone is discouraged and must be approved by the city administrator, or designee. All approved paving shall be porous pavement to allow water and air exchange.

**Sec. xxx Screening of dumpsters and building service equipment**

- (a) For outdoor condensers, utility huts, and other building service equipment (other than a rooftop), such equipment shall be reasonably screened from view on all sides using a masonry wall and vegetative screen using at least two (2) varieties of plant material from the “grow green” plant guide, that, at maturity, are at least the height of the equipment to be screened.
- (b) All refuse and/or recycling containers shall be reasonably screened with landscaping from public view and the view of adjoining properties.
- (c) The opening for removal of the dumpster for collection shall be a minimum of twelve (12) feet to allow proper service access. An additional ten (10) feet in width is required for every additional dumpster.
- (d) All durable materials used in constructing the dumpster screening masonry wall system shall be consistent with and complement the primary structure.
- (e) The orientation of the dumpster opening shall not face the street or public sidewalk unless approved by the city administrator, or designee.

**Sec. xxx Maintenance requirements**

The owner shall be responsible for (unless otherwise specified herein):

- (1) Regular maintenance of all required landscaped areas and plant materials in a vigorous and healthy condition, free from diseases, pests, weeds, and litter. This maintenance shall include weeding, watering, fertilization, pruning, mowing, edging, mulching, or other necessary maintenance in accordance with generally accepted horticultural practice;
- (2) The repair or replacement of required landscape structures (walls, fences, etc.) to a structurally sound condition;
- (3) The regular maintenance, repair, or replacement, where necessary, of any screening or buffering;
- (4) Replacing planted trees if they die or become diseased beyond repair within five (5) years after planting; and
- (5) Repairing damage to landscaped areas, structures, screening, buffering, or trees as a result of ingress or egress from site easements by authorized or unauthorized parties.

**Sec. xxx Integrated pest management**

Air integrated pest management plan (IPM) shall be submitted with the site plan. The IPM shall include the fertilizer ratios, brands, and types of fertilization application methods to be used. Fertilizers must be phosphate-free.

**Sec. xxx Tree preservation**

- (a) A grading and tree survey shall be submitted with the site plan.
- (b) The tree survey shall include all existing, live, healthy trees with an eight-inch DBH in diameter and larger. The survey shall indicate the size (DBH) and species of ~~tree~~ tree. Trees observed to be distressed will be indicated with

an asterisk on the tree list. Trees shall be represented by circles using the formula of one (1) foot of radius for every one inch of trunk diameter. Unbroken circles indicate trees that are to remain. Dashed circles indicate trees that are to be removed (including trees identified to be distressed).

(c) Healthy designated trees (as defined by the City of Austin Environmental Criteria Manual, Appendix F) that require removal to accommodate the development shall be replaced at a ratio of 1:1, or cash-in-lieu may be paid to the city, the amount equal to the cost of nursery stock required to replace the caliper amounts lost and the cost of installation on a per-unit basis, not to exceed one hundred dollars (\$100.00) per caliper inch or six thousand dollars (\$6,000.00) per acre (prorated for sites of more or less than one acre) for the entire site. Trees identified as distressed shall not be included in tree preservation requirements evaluation.

(d) Removal of a heritage tree is prohibited unless a variance is granted by City Council with the following finding that the heritage tree is either: (1) dead; (2) is an imminent hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree; or (3) is diseased and restoration to sound condition is not practicable or the disease may be transmitted to other trees and endanger their health.

(e) Pre- and post-construction fertilization is required for existing trees that will be or have been disturbed by construction activities, including disturbance of the critical root zone. Fertilizers must be phosphate-free.

(f) The planting, preserving, and maintaining of trees which are contagiously diseased trees, or the storage of cut oak unless first determined by a certified arborist to be devoid of oak wilt or properly treated, shall be deemed a public nuisance and is prohibited.

(g) During construction, take measures to protect trees, including rigid fencing, shielding, and signage, as necessary. Rigid fencing shall be placed with a radius of at least ten (10) feet from the trunk or at the critical root zone, whichever is greater, unless property lines or other features prohibit a complete radius. Rigid fencing shall consist of chainlink or wood fencing not less than four (4) feet high at the drip line of the tree. Stakes shall be no more than six (6) feet apart and at least one and one-half (1-1/2) deep into the ground. Rigid fencing shall be at least three (3) feet in height.

(h) The city administrator or designee shall inspect and approve installed tree protection before issuance of any permit to commence with any construction activity.

(i) Tree protection shall remain in place until final landscaping installation as approved by the city administrator or designee.

(j) Parking or storing of vehicles, equipment or materials allowed within the critical root zone is prohibited.

#### **Sec. xxx Irrigation requirements**

(a) An irrigation plan is required as part of the site plan and will be prepared by a licensed irrigator (i.e., licensed landscape architect or engineer). The plan should include rain/freeze sensors on all controllers. The irrigation plan should provide drip irrigation in shrub beds where appropriate and bubblers on all trees.

(b) Turf grass plantings may be Buffalo, Zoysia, or Bermuda. St. Augustine is expressly prohibited.

(c) Landscaped areas must be mulched to reduce evaporation and preserve water.

#### **Sec. xxx Drought conditions**

(a) During extreme drought classifications for this region as determined by the National Drought Mitigation Center, the city administrator, or designee, may accept a fiscal deposit of the amount equal to the cost of purchasing and installing the trees and other required landscaping into the city's drought tree fund in lieu of the installation of trees and other landscaping required by this chapter for the issuance of a certificate of occupancy permit, or the city administrator or designee may accept an escrow equal to the cost of purchasing and installing the trees and other required landscaping. The city shall only accept the fiscal deposit or escrow if an erosion control plan consistent with section xxx of this code has been reviewed and accepted by the city administrator or designee. Failure to maintain and adhere to an approved erosion control plan during periods of extreme drought classification shall be deemed a violation and the fines and penalties under section xxx of this article shall apply.

(b) Persons requesting that the city accept a fiscal deposit in lieu shall provide the city with written documentation from an entity that sells trees and landscaping the cost of purchasing and installing the trees and other landscaping required by this chapter.

(c) If no cost for the installation of trees and landscaping required by this chapter is provided to the city, the city shall require sixty-six (66) percent of the cost of the trees and landscaping to be paid as the installation cost in addition to the cost to purchase the trees and landscaping.

(d) Any fiscal deposits for trees and landscaping paid to the city pursuant to this section shall be held in escrow. The escrow may be drawn upon by the city to implement tree and landscaping requirements for the depositing property owner, or the funds shall be released to the depositing property owner to implement tree and landscaping requirements within thirty (30) days when the drought mitigation center determines that this region is no longer in an extreme drought condition or higher classification. Failure to implement the tree and landscaping requirements within thirty (30) days of release of the fiscal deposit to the depositing property owner shall be deemed a violation and the fines and penalties under section xxx of this article shall apply.

(e) Whenever necessary to enforce any provision of this article or implement tree and landscaping requirements on the depositing property owner's property, city staff, or the city's contractor, may enter upon depositing property owner's property at any reasonable time to inspect or perform any duty imposed by this article during an extreme drought classification for this region. If entry is refused, the city shall have recourse to every remedy provided by law and equity to gain entry.

(f) The city is the custodian of any cash funds or bonds on deposit in the property owner's escrow account. The city has a fiduciary duty to the depositing property owner and may dispose of the escrowed funds only in accordance with this section.

APPENDIX F - DESCRIPTIVE CATEGORIES OF TREE SPECIES

Legend: CO=Color                      MH=Mature Height (Feet)                      BP=Blackland Prairie +                      HG=Heritage  
 EQ=Evergreen Qualities              MW=Mature Width (Feet)                      EP=Edwards Plateau +                      UC= Utility Compatible  
 DC= Deciduous                      AN=Available at Nurseries                      DS=Dry (xeric) Site                      RS=Residential Subdivisions  
 FS=Full Sun                      SS=Significant Shade Provider                      MS=Moist (mesic) Site                      SE=Streetscape (Design Standards)  
 PS= Part Shade                      US=Understory                      WS=Wet (hydic) site  
 ST= Shade Tolerant                      WV=Wildlife Value

COMMON NAME <i>Scientific Name</i>	TREE CHARACTERISTICS												ECOREGION AND SOIL CHARACTERISTICS					CITY OF AUSTIN'S LISTS				
	CO	EQ	DC	FS	PS	ST	MH	MW	AN	SS	US	WV	BP	EP	DS	MS	WS	HG	UC	RS	SE	
ACACIA, CATCLAW <i>Acacia greggii</i>			x	x			20	20				x	x							x		
ACACIA, WRIGHT <i>Acacia greggii</i> var. <i>wrightii</i>			x	x			20	20				x	x							x		
ANACACHO ORCHID TREE <i>Corallia boissieri</i>	x		x		x		15	10	x			x	x							x	x	x
ANACUA <i>Ehretia anacua</i>	x	x	x	x	x		45	40	x	x			x								x	x
ASH, GREEN <i>Fraxinus pennsylvanica</i>	x		x	x	x	x	60	40		x			x									
ASH, TEXAS <i>Fraxinus texensis</i>	x		x		x		45	40	x			x	x							x		x
BOIS D'ARC <i>Maclura pomifera</i>	x		x	x			30	30		x												
BOXELDER <i>Acer negundo</i>			x	x	x		40	30				x	x									
BRASIL <i>Condalia hookeri</i> var. <i>hookeri</i>		x				x	30	35					x	x								
BUCKEYE, MEXICAN <i>Unguella speciosa</i>	x		x	x	x		20	20	x			x	x							x	x	x
BUCKEYE, RED <i>Aesculus pavia</i>	x		x		x	x	15	15	x			x	x							x		
BUCKEYE, TEXAS <i>Aesculus glabra</i> var. <i>arguta</i>	x		x		x	x	35	35	x			x										
BUCKTHORN, CAROLINA <i>Frangula caroliniana</i>	x		x		x	x	20	20	x			x	x							x	x	x
BUMELIA, GUM <i>Sideroxylon lanuginosum</i>	x		x	x	x		50	50		x			x								x	x
CAROLINA BASSWOOD <i>Tilia americana</i>			x	x	x	x	30	20					x									
CATALPA # <i>Catalpa</i> spp.	x		x	x			30	25	x	x					x	x						
CEDAR, EASTERN RED <i>Juniperus virginiana</i>		x		x	x	x	50	20	x	x			x		x	x						
CHERRY, ESCARPMENT BLACK <i>Prunus serotina</i> var. <i>eximia</i>	x		x	x	x		40	25	x	x			x		x	x					x	x
CHERRY-LAUREL, CAROLINA <i>Prunus caroliniana</i>	x	x		x	x		40	20	x	x			x								x	x
COTTONWOOD, EASTERN <i>Populus deltoides</i>			x	x	x	x	75	50					x			x	x					
CRABAPPLE, BLANCO <i>Malus ioensis</i> var. <i>texana</i>	x		x	x			20	15				x	x								x	
CYPRESS, ARIZONA # <i>Cupressus arizonica</i>	x	x		x			50	25	x	x					x	x						
CYPRESS, BALD <i>Taxodium distichum</i>				x	x		130	40	x	x			x			x	x			x		x

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RS=Residential Subdivisions  
SE=Streetscape (Design Standards)

COMMON NAME <i>Scientific Name</i>	TREE CHARACTERISTICS											ECOREGION AND SOIL CHARACTERISTICS					CITY OF AUSTIN'S LISTS					
	CO	EQ	DC	FS	PS	ST	MH	MW	AN	SS	US	WV	BP	EP	DS	MS	WS	HG	UC	RS	SE	
CYPRESS, MONTEZUMA # <i>Taxodium mucronatum</i>		x		x			50	40	x	x		x				x						
DOGWOOD, ROUGHLEAF <i>Cornus drummondii</i>	x		x		x	x	20	20	x		x	x			x	x	x			x	x	x
ELM, AMERICAN <i>Ulmus americana</i>			x	x	x		120	120		x		x			x	x	x			x		x
ELM, CEDAR <i>Ulmus crassifolia</i>			x	x	x		90	45	x	x		x			x	x	x			x		x
EVE'S NECKLACE <i>Sophora affinis</i>	x		x		x		25	20	x		x	x			x	x	x			x	x	x
GOLDENBALL LEAD-TREE <i>Leucaena retusa</i>	x		x	x	x		25	15	x			x				x	x			x	x	x
HACKBERRY <i>Celtis spp.</i>			x	x	x	x	30	20		x		x			x	x	x					
HICKORY, BLACK <i>Carya texana</i>			x		x		30	20				x			x	x	x				x	
HICKORY, MOCKERNUT <i>Carya alba</i>	x		x		x		85	60		x		x			x	x	x				x	
HOLLY, POSSUMHAW <i>Ilex decidua</i>	x		x	x	x		30	20	x		x	x			x	x	x			x	x	x
HOLLY, YAUPON <i>Ilex vomitoria</i>	x	x		x	x	x	25	20	x		x	x			x	x	x			x	x	x
HUISACHE <i>Acacia farnesiana</i>	x		x	x			20	20				x			x	x	x			x		
JUNIPER, ASHE <i>Juniperus ashei</i>		x		x	x		30	25		x		x			x	x	x					
KIDNEYWOOD <i>Eysenhardtia texana</i>	x		x	x			15	10	x		x	x			x	x	x			x	x	
LINDHEIMER'S SILKTASSEL <i>Garrya ovata ssp. lindheimeri</i>		x		x	x		15	10			x	x			x	x	x			x	x	
LOCUST, HONEY <i>Gleditsia triacanthos</i>			x	x	x		30	20				x			x							
MADRONE, TEXAS <i>Arbutus xalapensis</i>	x	x		x	x		30	40			x				x	x	x			x		
MAGNOLIA, SOUTHERN # <i>Magnolia grandiflora</i>	x	x		x			50	40	x	x						x						
MAPLE, BIGTOOTH <i>Acer grandidentatum</i>	x		x	x			40	25		x		x			x	x	x			x		x
MESQUITE, HONEY <i>Prosopis glandulosa</i>			x	x			30	25	x		x				x	x	x					
MOUNTAIN LAUREL, TEXAS <i>Sophora secundiflora</i>	x	x		x	x		25	10	x		x	x			x	x	x			x	x	x
MULBERRY, RED <i>Morus rubra</i>			x	x	x	x	30	20				x			x	x	x					
MULBERRY, TEXAS <i>Morus microphylla</i>			x		x		20	15				x			x	x						

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	CO	EQ	DC	FS	PS	ST	MH	MW	AN	SS	US	WV	BP	EP	DS	MS	WS	HG	UC	RS	SE
OAK, BLACKJACK <i>Quercus marilandica</i>			x	x	x		60	25		x		x	x	x	x			x		x	x
OAK, BUR <i>Quercus macrocarpa*</i>			x	x	x		100	50	x	x		x						x		x	x
OAK, CHINQUAPIN <i>Quercus muhlenbergii*</i>			x	x	x		60	50	x	x		x						x		x	x
OAK, DURAND <i>Quercus sinuata var. sinuata*</i>			x	x	x		75	60		x		x						x		x	x
OAK, LACEY <i>Quercus laceyi*</i>			x	x			45	25	x	x		x						x		x	x
OAK, LIVE (Coastal) <i>Quercus virginiana</i>		x		x	x		60	50	x	x		x						x		x	x
OAK, LIVE (Plateau) <i>Quercus fusiformis</i>		x		x	x		40	50	x	x		x						x		x	x
OAK, MEXICAN WHITE # <i>Quercus polymorpha*</i>		x	x	x	x		40	35	x	x		x						x			
OAK, POST <i>Quercus stellata*</i>			x	x	x		75	80		x		x						x		x	x
OAK, SHIN <i>Quercus sinuata var. breviloba</i>			x	x	x		35	35		x		x						x		x	x
OAK, SHUMARD RED <i>Quercus shumardii</i>	x		x	x	x		75	40	x	x		x						x		x	x
OAK, TEXAS RED <i>Quercus texana</i>	x		x	x	x		40	25	x	x		x						x		x	x
OAK, VASEY <i>Quercus vaseyana</i>			x		x		25	20				x						x		x	x
OLIVE, MEXICAN # <i>Cordia boissieri</i>	x	x		x	x		25	15				x							x		
PECAN <i>Carya illinoensis</i>			x	x			100	70	x	x		x						x		x	
PERSIMMON, COMMON <i>Diospyros virginiana</i>	x		x		x		40	20	x	x		x								x	
PERSIMMON, TEXAS <i>Diospyros texana</i>			x	x	x		20	10	x		x	x							x	x	
PISTACHE, TEXAS <i>Pistacia texana</i>	x	x		x			20	20	x	x		x							x	x	x
PLUM, MEXICAN <i>Prunus mexicana</i>	x		x	x	x		20	20	x		x	x							x	x	
REDBUD, MEXICAN <i>Cercis canadensis var. mexicana</i>	x		x	x	x		20	15	x		x	x							x	x	x
REDBUD, TEXAS <i>Cercis canadensis var. texensis</i>	x		x	x	x		30	15	x		x								x	x	x
RETAMA <i>Parkinsonia aculeata</i>	x		x	x			25	25	x			x									
SMOKE-TREE, AMERICAN <i>Cotinus obovatus</i>	x		x	x	x		25	20	x		x	x							x	x	x

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	CO	EQ	DC	FS	PS	ST	MH	MW	AN	SS	US	WV	BP	EP	DS	MS	WS	HG	UC	RS	SE	
<b>SOAPBERRY</b> <i>Sapindus drummondii</i>	x		x	x	x		30	30		x		x		x	x	x					x	
<b>SUMAC, EVERGREEN</b> <i>Rhus virens</i>	x	x		x	x		10	10	x			x	x							x	x	x
<b>SUMAC, FLAMELEAF</b> <i>Rhus lanceolata</i>	x		x	x			15	10	x			x	x							x	x	x
<b>SYCAMORE, AMERICAN</b> <i>Platanus occidentalis</i>			x	x	x	x	70	50	x	x				x	x							x
<b>SYCAMORE, MEXICAN #</b> <i>Platanus mexicana</i>			x	x			60	40	x	x					x							
<b>TOOTHACHE TREE</b> <i>Zanthoxylum hirsutum</i>			x	x	x		15	10				x								x		
<b>VIBURNUM, RUSTY BLACKHAW</b> <i>Viburnum rufidulum</i>	x		x		x		30	20	x			x	x							x	x	x
<b>WAFER ASH</b> <i>Ptelea trifoliata</i>			x	x	x	x	15	15				x	x								x	
<b>WALNUT, ARIZONA</b> <i>Juglans major</i>			x	x	x		50	30	x	x				x	x					x		x
<b>WALNUT, EASTERN BLACK</b> <i>Juglans nigra</i>			x	x	x		80	50	x	x			x		x	x				x		x
<b>WALNUT, LITTLE</b> <i>Juglans microcarpa</i>			x		x		30	30	x	x				x		x	x				x	
<b>WAX MYRTLE</b> <i>Myrica cerifera</i>		x		x	x		15	15	x			x	x								x	x
<b>WILLOW, DESERT</b> <i>Chilopsis linearis</i>	x		x	x			30	20	x					x	x	x					x	x
<b>WILLOW, BLACK</b> <i>Salix nigra</i>			x	x	x		30	20				x			x	x						

**FOOTNOTES**

\*Oak trees less susceptible to oak wilt

† The Texas Blackland Prairies and Edwards Plateau ecoregions as defined by Griffith et. al. (2004)

Griffith, G.E., Bryce, S.A., Omernik, J.M., Comstock, J.A., Rogers, A.C., Harrison, B., Hatch, S.L., and Bezanson, D., 2004, Ecoregions of Texas (color poster with map, descriptive text, and photographs): Reston, Virginia, U.S. Geological Survey (map scale 1:2,500,000).

# Identifies trees that are native to Texas, but are not known to naturally occur in the Edwards Plateau or Blackland Prairie ecoregions. If these trees exist on a site they can be mitigated, but one cannot receive mitigation credit for planting these species.

All trees, but those identified with #, are known to naturally occur within either or both the Edwards Plateau or Blackland Prairie Level III Ecoregions as defined by Griffith et. al. (2004).

The Austin area is in close proximity to range extents of many woody plant species not on this list that occur to the more arid southwest, subtropical south, and temperate east. In the event an isolated and rare occurrence is identified, the tree should be treated as native and protected.

All survey size non-native, invasive woody plants, as identified by the City of Austin, are required to be shown on the tree survey though no mitigation will be required. These trees include, but may not be limited to: *Ailanthus altissima*, Tree of heaven; *Albizia julibrissin*, Mimosa; *Dioscorea piperifera*, Paper mulberry; *Morus alba*, White mulberry; *Elaeagnus angustifolia*, Russian olive; *Firmiana simplex*, Chinese parasol; *Koeleria paniculata*, Golden rain; *Ligustrum* spp., Privet; *Melia azadirach*, Chinaberry; *Nandina domestica*, Nandina; *Photinia* spp., Photinia; *Pistacia chinensis*, Chinese pistache; *Pyracantha coccinea*, Pyracantha; *Tamarix* spp., Salt cedar; *Triadica sebifera*, Chinese tallow; *Ulmus pumila*, Siberian elm; *Ficus agnus-castus*, Lilac chaste.



**AGENDA ITEM:** Surplus  
**SUBMITTED BY:** Shawn Cox, City Administrator  
**DATE SUBMITTED:** April 15, 2019  
**MEETING DATE:** April 18, 2019

## AGENDA FORM

### ITEM DESCRIPTION/SUMMARY

On November 1, 2018, Council approved the sale of items in the City’s storage unit through a public auction. The auction, held on December 15, 2018, did not receive any participants.

The City has been approached by a resale shop downtown to sell the items approved for auction on consignment. She is willing to split the proceeds made fifty-fifty with the City. Attached to this statement is a list of items housed in the City’s storage unit.

Additionally, the City has had conversations with the Hays County Office of Emergency Management about taking possession of the cots, bedding, diapers, cribs, and hygiene kits acquired by the City in 2017. They would store these items at their facilities and have them available should any need arise in Hays County (including in Wimberley). We would also look to turn over the same items being stored at Blue Hole Park as well.

### 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**

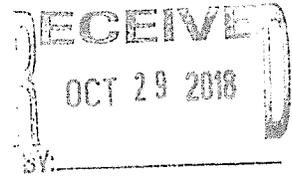
The City Administrator recommends Council declare the items listed as surplus and agree to sell them on consignment. Additionally, the City Administrator recommends providing Hays County with the surplus cots and equipment for storage at their facilities, making them available for use throughout the County.

## **ATTACHEMENTS**

- Storage Unit Inventory
- Surplus Cots and Equipment Inventory
- Surplus Approval Form

Storage Unit Inventory

October 26, 2018



- 1 large wooden door
- 3 Rolls of Silt Fence, length unknown
- 1 Bicycle
- 1 Tool Box, Miscellaneous tools, used for traffic counters
- 1 obsolete portable drill, batteries won't charge
- 1 Fellows Shredder, broken
- 1 light meter
- 1 conference table (4' x 8' Formica)
- 1 four drawer file cabinet
- 1 wooden shelving unit
- 2 Floor fans
- 2 large wet vacs
- 1 well monitoring system, in cooler box
- 1 broken back pack blower (Could be repaired)
- 2 portable traffic counter stands
- 3 Street Counters, need upgrade
- 1 Tri-level computer work station, in box
- 1 In-car video equip (junk)
- 11 Metal cabinets, odd sizes
- 3 large generators (3kw)
- 1 7' credenza
- 1 small refrigerator

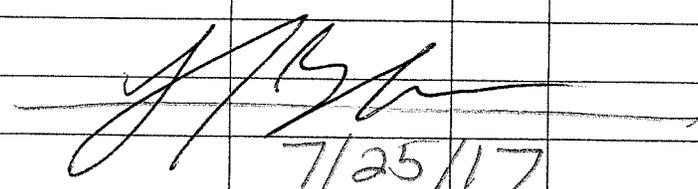
- 1 2dr storage cabinet
- 1 City Hall prop display
- 3 miscellaneous chairs
- 1 electronics stand

**Federal Surplus Property Program  
San Antonio  
DELIVERY ORDER**

Date: 7-25-17 Account Number: 16839 Delivery Order: **DO 0889S**

To: City of Wimberley  
From: **FEDERAL SURPLUS PROPERTY**

Please Deliver To: Mac McCullough

ITEM	ID#	DESCRIPTION	UNIT COST	QTY	TOTAL
1	017-2511-48-084	Bed/cot (8 per pallet)	✓ 80.00	(13)	1040-
2	017-2511-48-164	Bed Kit	✓ 3.00	(200)	600-
3	017-2511-48-104	Diapers Baby (PK6)	✓ 3.00	(196)	588-
4	017-2511-48-052	Underwear Protective (BX)	✓ 3.00	(53)	159-
5	017-2511-48-102	Crib Portable	✓ 10.00	(37)	370-
6	017-2511-48-020	Cup Toddler (BX)	✓ 5.00	(04)	20-
7	017-2511-48-088	Blanket Wool Blend	✓ 2.00	(200)	400-
8	017-2511-48-027	Kit Hygiene	✓ 1.00	(200)	200-
9	017-2511-48-148	Wash Cloth Disposable (BX)	✓ 3.00	(40)	120-
10	017-2634-20-007	Tarpaulin	✓ 10.00	(02)	20-
11	017-2443-40-001	Compressor	✓ 100.00	(01)	100-
12	017-2444-40-002	60 gallon Air tank	✓ 65.00	(01)	65-
picked up					
by					
					
7/25/17					
					\$3682-

**ALL PROPERTY MUST BE PLACED IN USE WITHIN 12 MONTHS FOR COMPLETE INFORMATION READ THE CERTIFICATIONS AND AGREEMENTS ON THE REVERSE SIDE OF THIS DOCUMENT**

NOTICE: The property listed here on is subject to the appropriate certifications and agreements set forth below and on the reverse side of this document. This property is being accrued exclusively for the below listed purpose and the certifications and agreements printed on the back of this document are affirmed.

SIGNATURE: X TITLE: X





**AGENDA ITEM:** PEC Variance Request - Fence  
**SUBMITTED BY:** Shawn Cox, City Administrator  
**DATE SUBMITTED:** April 15, 2019  
**MEETING DATE:** April 18, 2019

## AGENDA FORM

### ITEM DESCRIPTION/SUMMARY

Pedernales Electric Cooperative, Inc. (PEC) is requesting a variance under Sec. 4.07.006 (d) of the Code of Ordinances which allows for a Special exception variance to be approved when it's found that:

- i. The probable effect the variance will have upon traffic conditions and upon the public health, safety, convenience, and welfare of the community;
- ii. The surrounding property will not be substantially or permanently impaired or diminished;
- iii. The variance will not confer upon the applicant a special right or privilege not commonly shared or available to the owners of similar and surrounding property;
- iv. The applicant has not created the hardship from which relief is sought;
- v. The hardship from which relief is sought is not solely of an economic nature;
- vi. The variance is not contrary to the public interest;
- vii. Due to special conditions, the literal enforcement of this article would result in an unnecessary hardship; and
- viii. In granting the variance, the spirit of this article is observed and substantial justice is done.

Specifically, PEC is requesting a variance from Sec. 4.07.006, which states:

- "Any fence that faces a street or road within the incorporated limits of the city and is more than 4 feet in height: (1) Shall have a solid-to-void ratio no greater than 1:8 (12.5%)..."

PEC is requesting the ability to construct an eight-foot decorative concrete fence around their substation at 107 FM 2325. National Electric Safety Code (NESC) requires substations to have a fence with a height not less than 7 foot.

**REQUESTED ACTION**

- Motion
- Discussion
- Ordinance
- Resolution
- Other

**FINANCIAL**

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

**STAFF RECOMMENDATION**

The City Administrator recommends approval of this item.

**ATTACHMENTS**

- PEC Variance Application
- PEC Variance Location - Map

**FOR OFFICIAL USE ONLY**

APPLICATION DATE: \_\_\_\_\_ FILE NO. \_\_\_\_\_

HEARING DATE: \_\_\_\_\_ PLANNING AREA: \_\_\_\_\_ ZONING: \_\_\_\_\_

VARIANCE FEES: \$ \_\_\_\_\_ DATE PAID: \_\_\_\_\_ RECEIVED BY: \_\_\_\_\_

## City of Wimberley APPLICATION FOR VARIANCE

**OWNER/AGENT INFORMATION**

1. Owner's Name: Pedernales Electric cooperative Home Phone: ( ) \_\_\_\_\_  
 Business Phone: ( ) 830 868 5166  
 Cell Phone: ( ) 830 220 1454  
 Fax: ( ) \_\_\_\_\_

Current Mailing  
 Address: P.O. Box 1 City Junction City State TX Zip 78636  
 Email: Ryan.Merline@peci.com

2. Agent's Name: Superior Concrete Products (Kyle Wilson) Business Phone: (817) 277 9255  
 (Must be accompanied by letter of authorization from owner) Cell: (817) 271 3319

Current Mailing  
 Address: 1203 Balder Drive City Euless State TX Zip 76040  
 Email: KWilson@concretefence.com

**PROJECT DATA**

1. Property ID#: R \_\_\_\_\_ (Appears on your Tax Statement) Present Zoning: \_\_\_\_\_

Street Address of Project: 107 FM 2325 Wimberley, Texas 78676  
 (Note: If you do not have an assigned street address, please call 512-393-2160 Directions to Project)

Subdivision: \_\_\_\_\_ Lot: \_\_\_\_\_ Block: \_\_\_\_\_ Recorded in Vol. \_\_\_\_\_ Page \_\_\_\_\_

2. IS PROPERTY IN AN OVERLAY DISTRICT? YES \_\_\_\_\_ NO \_\_\_\_\_ UNKNOWN \_\_\_\_\_  
 TYPE OF OVERLAY ZONE(S) (if applicable) \_\_\_\_\_

**Project Data (Continued)**

3. FLOOD PLAIN (What, if any, flood zone does your property Occupy?): \_\_\_\_\_

4. WASTEWATER SYSTEM: ( ) Septic; ( ) Aqua Utility; ( ) GBRA  
HAYS COUNTY SEPTIC PERMIT NUMBER (if applicable): N/A

5. Directions to your Project: From RR 12 go west on FM 2325.

The Wimberley Substation is on the south side  
at the corner of FM 2325 and Twilight Trail

**Please clearly mark your property so it is easily identifiable.**

**SPECIFIC SECTIONS OF ZONING ORDINANCE NO. 2001-010 FOR WHICH A VARIANCE IS REQUESTED:**

Section 151-18 states that any fence that faces a street and is more  
than 4' in height shall have a solid to void ratio no greater than 1:8  
and shall require a building permit if greater than 4 ft  
in height.

**REASON FOR NEED OF VARIANCE (Attach separate sheet if necessary)**

Electric substations have high-voltage electric lines and equipment  
within them. Per the National Electric Safety Code (NESC), fences  
around substations shall have a height not less than 7 feet.  
PEC has intentions to install an 8 foot concrete decorative  
wall around the Wimberley Substation. The fence is  
budgeted by PEC to be completed at no cost to the City  
of Wimberley and is scheduled to start the construction  
of the fence on 4/22/19.

**ACKNOWLEDGMENT OF EXISTING  
Subdivision Plat Notes, Deed Restrictions Restrictive Covenants  
and/or Zoning Conditional Use Permits**

I, the Applicant herein, have checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permits prohibiting certain uses and/or requiring certain development restrictions (for example, height, access, screening) on the property for which a variance is now being considered on my behalf.

If a conflict should result with the request I am submitting to the City of Wimberley due to subdivision plat notes, deed restrictions, restrictive covenants and/or which do not conform with the City ordinances, it will be my responsibility to resolve it. I also acknowledge that I understand the implications of use and/or development restrictions that are a result of subdivision plat notes, deed restrictions, restrictive covenants and/or zoning ordinances.

I understand that if requested, I must provide copies of any and all subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permit information, which may apply to this property.

Date: \_\_\_\_\_ APPLICANT \_\_\_\_\_  
SIGNATURE \_\_\_\_\_

**WHEN APPLICABLE:**

Date: \_\_\_\_\_ AGENT \_\_\_\_\_  
SIGNATURE \_\_\_\_\_

**SITE INSPECTION AUTHORIZATION**

Applicant/owner, or Applicant's authorized agent, hereby authorizes the City of Wimberley Board of Adjustment Members and City representatives to visit and inspect the property for which this application is being submitted.

Date: 4/10/19 APPLICANT Paul Lochte (PEC Director, Engineering)  
SIGNATURE Paul Lochte

**WHEN APPLICABLE:**

Date: \_\_\_\_\_ AGENT \_\_\_\_\_  
SIGNATURE \_\_\_\_\_

**ACKNOWLEDGMENT OF EXISTING  
Subdivision Plat Notes, Deed Restrictions Restrictive Covenants  
and/or Zoning Conditional Use Permits**

I, the Applicant herein, have checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permits prohibiting certain uses and/or requiring certain development restrictions (for example, height, access, screening) on the property for which a variance is now being considered on my behalf.

If a conflict should result with the request I am submitting to the City of Wimberley due to subdivision plat notes, deed restrictions, restrictive covenants and/or which do not conform with the City ordinances, it will be my responsibility to resolve it. I also acknowledge that I understand the implications of use and/or development restrictions that are a result of subdivision plat notes, deed restrictions, restrictive covenants and/or zoning ordinances.

I understand that if requested, I must provide copies of any and all subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permit information, which may apply to this property.

Date: \_\_\_\_\_ APPLICANT \_\_\_\_\_  
SIGNATURE \_\_\_\_\_

WHEN APPLICABLE:

Date: \_\_\_\_\_ AGENT \_\_\_\_\_  
SIGNATURE \_\_\_\_\_

**SITE INSPECTION AUTHORIZATION**

Applicant/owner, or Applicant's authorized agent, hereby authorizes the City of Wimberley Board of Adjustment Members and City representatives to visit and inspect the property for which this application is being submitted.

Date: \_\_\_\_\_ APPLICANT \_\_\_\_\_  
SIGNATURE \_\_\_\_\_

WHEN APPLICABLE:

Date: \_\_\_\_\_ AGENT \_\_\_\_\_  
SIGNATURE \_\_\_\_\_

5. The property involved is otherwise in compliance with all other applicable City ordinances, rules and regulations; and

6. The granting of the variance will be in harmony with the spirit and purpose of this ordinance.

Special Circumstances:

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**SUBMITTAL VERIFICATION AND/OR WAIVER OF APPEARANCE**

My signature attests to the fact that the attached application package is complete and accurate to the best of my knowledge. I understand that City review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided by me, my firm, or agent, may delay the review of the Application.

Date: 4/10/19

APPLICANT Paul Lachte

SIGNATURE *Paul Lachte*

WHEN APPLICABLE:

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

AGENT \_\_\_\_\_

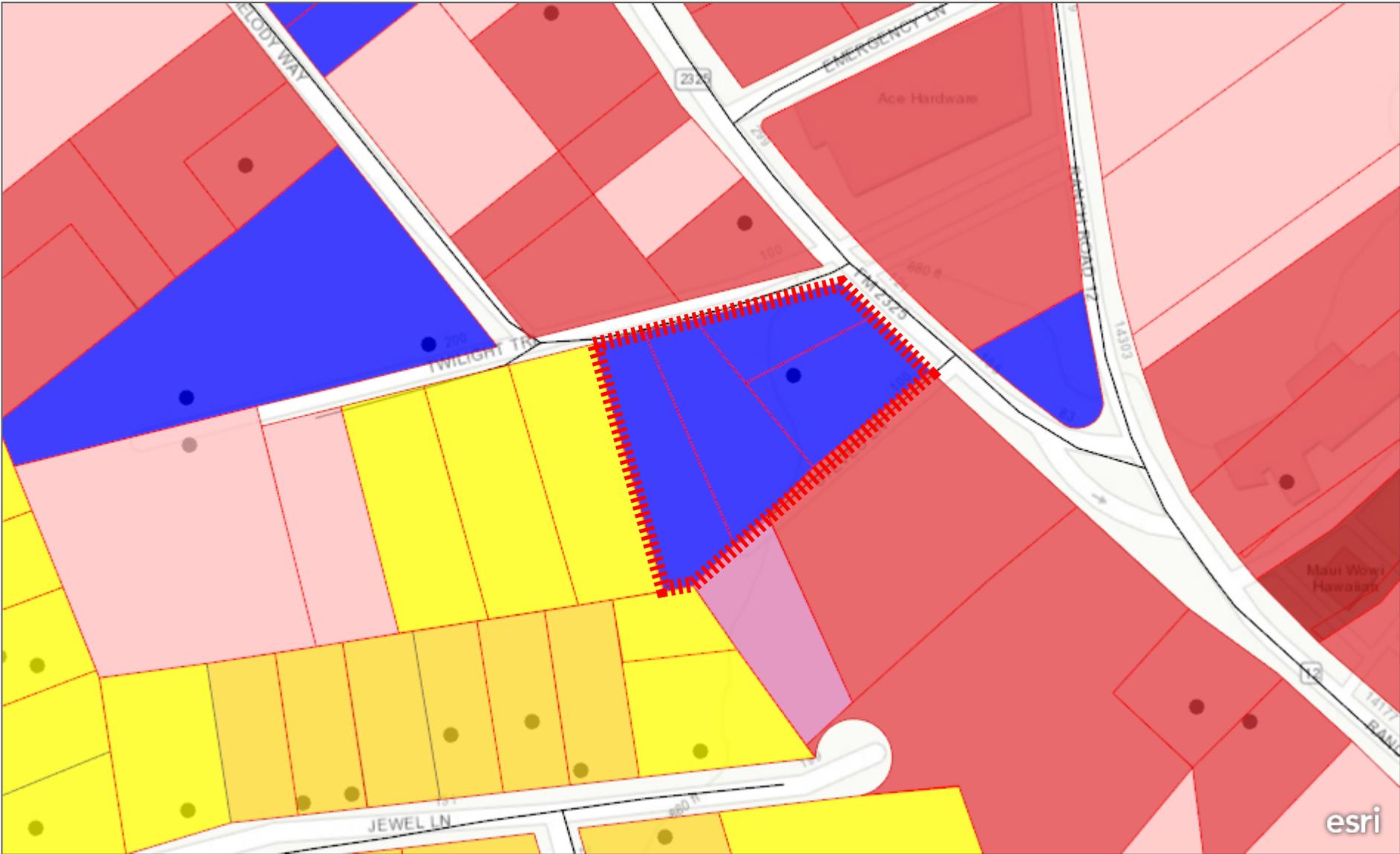
SIGNATURE \_\_\_\_\_







# City of Wimberley Web Map



base zoning map

200ft

City of Austin, Comal County, Texas Parks & Wildlife, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA



**AGENDA ITEM:** Road Repair – Rocky Springs Road  
**SUBMITTED BY:** Shawn Cox, City Administrator  
**DATE SUBMITTED:** April 15, 2019  
**MEETING DATE:** April 18, 2019

## AGENDA FORM

### ITEM DESCRIPTION/SUMMARY

The City was approached by residents along Rocky Springs Road to evaluate the condition of the pavement and drainage in their neighborhood. Working with the Hays County Transportation Department, the City has put together a project for the necessary repairs.

The City, if approved, will utilize its Interlocal Agreement with Hays County for this project. Estimated costs are \$36,337. The project includes pavement repair and the replacement of a drainage culvert.

	<u>FY 2019 Budget</u>	
	<u>Maintenance</u>	<u>Capital</u>
Budgeted	\$ 80,000	\$ 140,000
Spent to Date	\$ 40,000	\$ 64,871
<b>Balance</b>	<b>\$ 40,000</b>	<b>\$ 75,129</b>

There are sufficient funds remaining in the FY 2019 Adopted Budget for this project.

### REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

**FINANCIAL**

Budgeted Item	<input checked="" type="checkbox"/>	Original Estimate/Budget:	\$
Non-budgeted Item	<input type="checkbox"/>	Current Estimate:	\$ 36,337.00
Not Applicable	<input type="checkbox"/>	Amount Under/Over Budget:	\$

**STAFF RECOMMENDATION**

The City Administrator recommends utilizing the City’s Interlocal Agreement with Hays County to provide road maintenance/repairs on Rocky Springs Road for an amount not to exceed \$36,337.00.

**ATTACHMENT(S)**

- Interlocal Agreement
- Hays County Estimate – Rocky Springs Road

**INTERLOCAL AGREEMENT FOR  
ROADWAY REPAIR AND MAINTENANCE**

This Interlocal Agreement for Roadway Repair and Maintenance (“Agreement”) is hereby entered into by and between the Village of Wimberley, Texas, a Type A general-law municipality, hereinafter referred to as the “City,” and the County of Hays, a political subdivision of the State of Texas, hereinafter referred to as the “County”.

**ARTICLE I.  
RECITALS**

**WHEREAS**, County and City desire to provide safe and well maintained roads, streets, alleys and rights-of-way for the use and benefit of the public and future generations; and

**WHEREAS**, the County and the City desire to cooperate in the maintenance and repair of certain roads, streets, alleys and rights-of-way within the County and City; and

**WHEREAS**, the County and the City desire to allocate by mutual agreement the responsibilities for governmental functions and services which are or may become necessary in providing safe and well maintained roads, streets, alleys and rights-of-way that are of consistent quality of pavement along the whole length of roads that are part of the County or City Road System, even those County Roads that lie within the City limits (See Texas Attorney General Opinions WW-1401, H-1018 and H-1019); and

**WHEREAS**, the Interlocal Cooperation Act (Chapter 791, Texas Government Code) (the “Act”) empowers the Parties to contract with each other in the performance of governmental functions; and

**WHEREAS**, road and street maintenance are governmental functions within the meaning of the Act; and

**WHEREAS**, the City and the County are “local governments” within the meaning of the Act; and

**WHEREAS**, the City and the County each itself has the authority under Texas law to perform such road and street maintenance, as required by the Act; and

**WHEREAS**, specifically section 791.032 permits, with the approval of the governing body of a municipality, a county to enter into an interlocal contract with the municipality to finance the construction, improvement, maintenance, or repair of streets or alleys in the municipality, including portions of the municipality’s streets or alleys that are not an integral part of or a connecting link to other roads or highways; and

**WHEREAS**, section 251.012 of the Texas Transportation Code expressly allows a commissioners court of a county to spend county money to finance the construction, improvement, maintenance or repair of a street or alley; and further subsection (b)(3) permits that the county work may be done or financed by the county as an independent contractor with the municipality; and

**WHEREAS**, Hays County has budgeted funds sufficient for general maintenance of roads in the County Road System that lie inside the City limits; and

**WHEREAS**, the total expenditure of municipal funds under this Agreement is expected to be less than \$50,000, exempting the City from compliance with the competitive bid procedures of chapter 252 of the Local Government Code.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained herein, as well as other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, both the City and the County agree as follows:

## **ARTICLE II. MAINTENANCE SERVICES**

### **2.1 Definition.**

The "Maintenance Services" to be provided by the County to the City hereunder are services, including, the maintenance and repair of asphalt and pavement of the streets and roads and corresponding maintenance and repair to the subsurface and surface of roads and streets as designated herein, as appropriate to Hays County and as specifically agreed by and between the City and the County, namely, those services specified herein.

### **2.2 Term.**

a. Unless terminated as provided herein, the Initial Term of this Agreement will commence on the date of execution by the last party to sign the Agreement (hereinafter the "Effective Date"). The Initial Term shall be for one (1) year, commensurate with the fiscal year of the City. In the event that the City and County execute this Agreement after the beginning of the City's fiscal year, the Initial Term shall be from the Effective Date until the end of the City's fiscal year.

b. This Agreement shall automatically renew for succeeding one-year Renewal Terms, commensurate with the City's corresponding fiscal year, unless terminated by either party as provided for in Article IV.

### **2.3 Current Funds.**

Funding from each party for the performance of this Agreement will be provided from current revenues available to the parties. Further, the City assures the County that funds are available (and, unless written notice is otherwise provided by the City, will continue to be available) to reimburse the County, as the City is obligated to do under the terms of this Agreement. After written notice from the City that no City funds are available or if this Agreement is terminated in a budget year, the City shall not be obligated to reimburse the County for the cost of any labor or materials related to any maintenance or repair of any County Road or City Road incurred by the County after its receipt of the written notice from the City, unless the project was already undertaken at the time of the written notice.

### **2.4 Maintenance Services.**

a. County Road System Roadways. In regard to all roads within the City limits that are identified by the County as roads that are part of or integral to the County Road System (hereinafter "County Roads"), and as more particularly identified on Exhibit "A", attached and incorporated by reference, the Parties agree as follows:

1. County shall be responsible for providing the labor and equipment required for maintenance and repair of County Roads.
2. City agrees to pay for all actual material costs related to the maintenance and repairs of County Roads.
3. City may request the maintenance and repair of specific County Roads, but County shall, with or without a request by City, (i) identify County Roads that are in need of maintenance and repair, (ii) provide 30 days prior written notice to City of maintenance and repair that County intends to perform on County Roads, and (iii) unless City objects to the maintenance and repair within ten (10) days of receiving notice under this Section, maintain and repair all County Roads in a similar fashion and to a similar quality as is customarily performed on other county roads within Hays County.
4. If City desires that a specific County Road be maintained, repaired, or upgraded to a higher quality or higher standard than is customarily performed by County on other county roads within Hays County, City may, at no expense to County, contract with a third party for the maintenance, repair, and/or upgrade of that specific County Road. In the alternative, the City may request the County to perform the maintenance, repair, and/or upgrade of that specific County Road to the specifications desired by City, if County has the resources available to perform to those specifications.
5. If City requests that County perform the maintenance, repair, and/or upgrade of a specific County Road under subsection 2.4(a).3 of this Agreement, County shall provide an estimate to City for the proposed work, and the parties shall follow the procedures set forth for City Roads, below. County's estimate under this section shall account for the cost of materials it would take to maintain, repair, and/or upgrade that specific County Road to the county standard, plus the reasonable cost of materials, labor, and equipment it would take to maintain, repair, and/or upgrade that specific County Road to a higher quality or higher standard than is customarily performed by County on other county roads within Hays County.

b. City Roadways. In regard to all roads within the City limits of that are NOT identified by County as roads that are part of or integral to the County Road System (hereinafter "City Roads"), the parties agree as follows:

1. County shall, at the request of City, provide City with a written estimate and proposed Start Date for the maintenance, repair, and/or upgrade of specific City Roads. The written estimate shall include reasonable compensation for County's labor, equipment, and material costs associated with the maintenance, repair, and/or upgrade of any specific City Road to the standards as specified by the City.
2. City shall, within thirty (30) days' receipt of a written estimate from County, request that County (i) perform the maintenance, repair, and/or upgrade of that specific City Road as estimated by County, or (ii) inform the County that the City desires to wait until a later date upon which the County can provide City with a new estimate and available start date for that specific City Road. City may, at any time, contract with a third party for the maintenance,

repair and/or upgrade of any City Road.

3. If City requests that County perform maintenance, repairs, and/or upgrades under subsection 2.4(a).3, above, County shall commence performance of the maintenance, repair, and/or upgrade within ten (10) days of the proposed Start Date cited in subsection 2.4(b).1, above. If City waits for a period longer than thirty (30) days to respond to County's written estimate, or if City requests that County act in accordance with 2.4(a).3, above, the written estimate provided by County shall be considered expired and void unless otherwise indicated or extended in writing by County.

### **ARTICLE III. PAYMENT**

#### 3.1 Payment.

All invoices related to Maintenance Services for County Roads and City Roads shall be provided by County on a monthly basis for all costs that are the obligation of the City of under this Agreement. The City shall pay said invoices no later than thirty (30) days after receipt.

### **ARTICLE IV. TERMINATION**

#### 4.1 Termination.

This Agreement may be terminated by either party, for any reason whatsoever, by providing sixty (60) days' written notice to the non-terminating party. If, upon providing or receiving notice of termination under this Section, County has begun performance of Maintenance Services or upgrade of any roadway under this Agreement, County shall complete the work on that specific roadway and City shall pay, as may be required by the terms of this Agreement, for the completion of work on that specific roadway before either party is released from the terms and obligations of this Agreement.

### **ARTICLE V. MISCELLANEOUS**

#### 5.1. Notice.

Any notice required or permitted to be given by either party under the terms of this Agreement shall be deemed given, whether or not received, three (3) days after it is deposited in the United States mail, postage prepaid, certified mail with return receipt requested, to the address for notice set forth below, or the last address for notice which the sender has for the recipient at the time the notice is sent, with a copy sent on the same day by facsimile, or on the date the notice is delivered if hand delivered, with a written acknowledgment of receipt obtained.

Addresses for notice are as follows, unless expressly changed by the parties in writing:

- a. Notices sent pursuant to this Agreement may be delivered or sent to the CITY at the following address:

Mr. Don Ferguson, Village Administrator (or his successors in office)  
Village of Wimberley  
P.O. Box 2027  
Wimberley, TX 78676

- b. Notices sent pursuant to this Agreement may be delivered or sent to the COUNTY at the following address:

Commissioner Will Conley (or his successors in office)  
P.O. Box 2085  
Wimberley, Texas 78676

- c. To be effective, a copy of any notices sent to the COUNTY shall be sent to the Special Counsel's Office at the following address:

Mark Driscoll Kennedy (or his successors in office)  
A.D.A. -- Special Counsel  
Hays County, Texas  
111 E. San Antonio, Suite 204  
San Marcos, TX 78666

- d. To be effective, a copy of any notice sent to the CITY shall be sent to the CITY Attorney at the following address:

Patty L. Akers (or her successors in office)  
Bickerstaff Heath Delgado Acosta LLP  
816 Congress Ave., Suite 1700  
Austin, TX 78701

#### 5.2 Cooperation, Reservation of Rights.

The City and County agree to cooperate with each other, in good faith, at all times during the term hereof in order to achieve the purposes and intent of this Agreement. The Parties agree to do all acts and things and to execute and deliver such further written instruments, as may be from time to time reasonably required to carry out the purposes and the provisions of this Agreement. Nothing in this Agreement shall be construed to interfere with the City's and County's legal right to autonomously maintain and repair roads that have been identified as part of each entity's respective road system, particularly if the condition of said roads, in the Party's opinion, poses a safety or mobility concern.

#### 5.3 Entire Agreement; Amendments.

This Agreement contains the entire agreement between the parties respecting the subject matter hereof, and supersedes all prior understandings and agreements between the parties regarding such matters. This Agreement may not be altered, amended, or modified except in writing signed by all parties to this Agreement. No official, agent, employee, or representative of either the County or the City has the authority to alter, amend, or modify the terms of this Agreement, except in accordance with express authority as may be respectively granted by either the County Commissioners Court or the City Council.

#### 5.4 Interpretation.

The parties acknowledge and confirm that this Agreement has been entered into pursuant to the authority granted under the Interlocal Cooperation Act. All terms and provisions hereof are to be construed and interpreted consistently with that Act.

5.5 Severability.

Any clause, sentence, paragraph or article of this Agreement which is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect shall not be deemed to impair, invalidate, or nullify the remainder of this Agreement if the Agreement can be given effect without the invalid portion.

5.6 Applicable Laws.

This Agreement shall be construed in accordance with the laws of the State of Texas.

5.7 Authorization.

Each party hereto acknowledges and represents that this Agreement has been duly authorized by its respective governing body. This Agreement shall not become effective until approved by the City Council of the City and Hays County Commissioners Court and signed by both parties.

5.8 Indemnity.

The City agrees that it will, to the extent permitted by applicable law, save, protect, defend, and hold harmless the County from any and all suits, claims, or causes of action which may arise out of or in any manner be connected with the negligence, recklessness or intentional misconduct of City employees, agents, or servants in performing the City's obligations under the terms of this Agreement.

The County agrees that it will, to the extent permitted by applicable law, save, protect, defend, and hold harmless the City from any and all suits, claims or causes of action, or public liability which may arise out of or in any manner be connected with County operations or programs, and the negligence, recklessness or intentional misconduct of County employees, agents or servants in performing or failing to perform the County's obligations under the terms of this Agreement.

Nothing herein shall be deemed in any manner to constitute a waiver of any immunity or affirmative defense which may be asserted by the County or the City pursuant to law. Nor shall this provision be in any manner construed to create a cause of action for the benefit of any person not a party to this Agreement not otherwise existing at law.

5.10 Duplicate original counterparts; other similar agreements distinct.

This Agreement may be executed in duplicate original copies by the parties. Similar agreements by and between the City or County and other contracting entities may be made; each such separately executed version of this Agreement is and shall constitute a separate and distinct agreement between the City or County and the particular other County, but does not create obligations or rights as between contracting entities.

5.11 Alternative Dispute Resolution.

It shall be a prerequisite to either party seeking legal or equitable relief for any disputes arising under or related to this Agreement or the Maintenance Services that mediation be conducted. If they are unable to agree to a mediator and mediation process, the parties agree to use the Dispute Resolution Center of Austin, Texas, as the provider of mediators for mediation as described in the Texas Civil Practice and Remedies Code, section 154.023. Unless both parties are satisfied with the results of any such mediation, it will not constitute a final and binding resolution of the dispute; provided, however, that any mutually agreed settlement reached in such mediation may be enforced by any court of competent jurisdiction. All communications within the scope of the mediation are and shall be confidential as

provided in said section 154.023 unless both parties agree in writing to waive confidentiality.

5.12 Non-waiver.

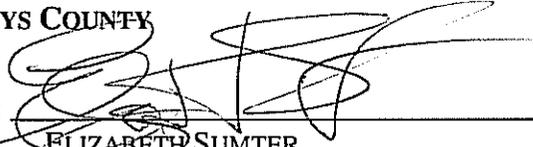
Any act of forbearance by either party will not constitute and will not have the effect of an amendment of this Agreement. The failure of either party to exercise any right under this Agreement under certain circumstances does not imply a waiver of such right under like circumstances later occurring.

5.13 Interpretation and Reliance.

No presumption will apply in favor of either Party in the interpretation of this Agreement or in the resolution of any ambiguity of any provisions thereof.

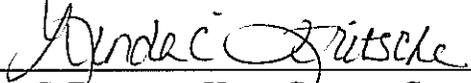
EXECUTED THIS 24th day of February, 2009.

HAYS COUNTY

By:   
ELIZABETH SUMTER  
HAYS COUNTY JUDGE



ATTEST:

  
LINDA C. FRITSCH, HAYS COUNTY CLERK

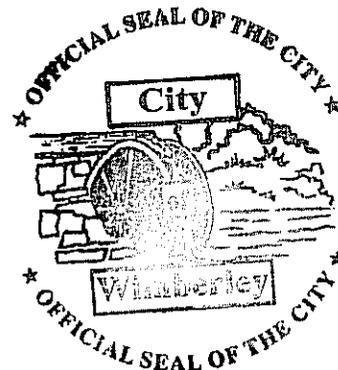
EXECUTED THIS 24th day of February, 2009.

VILLAGE OF WIMBERLEY

By:   
TOM HALEY, MAYOR

ATTEST:

  
CARA MCPARTLAND, VILLAGE SECRETARY



**EXHIBIT "A"**

**Roads designated as County Roads  
Located within the Village of Wimberley**

Carney Lane

Cypress Creek Road

Flite Acres Road

FM 1492

Fulton Ranch Road

Green Acres Road

River Road

Saddleridge Drive

Wayside Drive



**CERTIFIED COPY OF HAYS COUNTY COMMISSIONERS' COURT MINUTES**

\*\*\*\*\*

**STATE OF TEXAS \***  
**COUNTY OF HAYS \***

ON THIS THE 24<sup>TH</sup> DAY OF FEBRUARY A.D., 2009, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN REGULAR MEETING. THE FOLLOWING MEMBERS WERE PRESENT, TO-WIT:

**ELIZABETH "LIZ" SUMTER**  
**DEBBIE GONZALES INGALSBE**  
**JEFFERSON W. BARTON**  
**WILL CONLEY**  
**KAREN FORD**  
**LIZ GONZALEZ**

**COUNTY JUDGE**  
**COMMISSIONER, PCT. 1**  
**COMMISSIONER, PCT. 2**  
**COMMISSIONER, PCT. 3**  
**COMMISSIONER, PCT. 4**  
**DEPUTY COUNTY CLERK**

**25950      AUTHORIZE THE COUNTY JUDGE TO EXECUTE AN INTERLOCAL AGREEMENT WITH THE CITY OF WIMBERLEY, TEXAS FOR THE MAINTENANCE OF ROADWAYS WITHIN WIMBERLEY'S INCORPORATED LIMITS [T2-1995]**

A motion was made by Commissioner Conley seconded by Commissioner Ford to authorize the County Judge to execute an Interlocal Agreement with the City of Wimberley, Texas for the maintenance of roadways within Wimberley's Incorporated Limits. All voting "Aye". MOTION PASSED

**THE STATE OF TEXAS**  
**COUNTY OF HAYS**

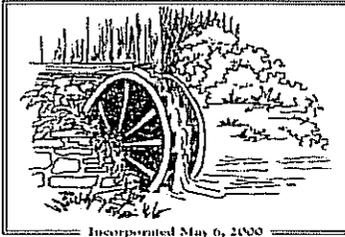
I, Linda C. Fritsche, County Clerk and Ex-Officio Clerk of the Commissioners' Court of Hays County, Texas, do hereby certify that the following contains a true and correct copy of the minutes of **FEBRUARY 24, 2009** under Resolution **#25950** in the Commissioners' Court Minutes of Hays County, Texas:

Given under my hand and seal of office at San Marcos, Texas this the 3<sup>RD</sup> day of MARCH, 2009.



**LINDA C. FRITSCH, COUNTY CLERK AND EXOFFICIO CLERK OF THE HAYS COUNTY COMMISSIONERS' COURT**

BY *Liz Gonzalez*  
DEPUTY



# City of Wimberley

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

---

September 2, 2010

County Judge Elizabeth Sumter  
County of Hays  
111 E. San Antonio Street, Suite 300  
San Marcos, Texas 78666

RE: Amendment to Roadway Repair and Maintenance Interlocal Agreement

Dear Judge Sumter:

I am writing this letter to advise you and members of the Hays County Commissioners Court that on September 2, 2010 the Wimberley City Council voted to approve the enclosed amendment to the *City of Wimberley – Hays County Interlocal Agreement For Roadway Repair And Maintenance*.

Please be advised that the above referenced amendment, coupled with the recent City Council action on the County's request to improve Flite Acres Road, shall serve as evidence of the City's consent to proceed with the proposed asphalt overlay of that portion of Flite Acres Road located within the city limits, at no cost to the City.

On behalf of the City of Wimberley, I would like to thank you and members of the Court for approaching the City with this project. Please let me know if you have any questions or need further information.

Sincerely,

A handwritten signature in black ink, appearing to be "Don Ferguson", written over a white rectangular area.

Don Ferguson  
City Administrator

**FIRST AMENDMENT TO  
INTERLOCAL AGREEMENT FOR ROADWAY REPAIR**

This 1<sup>st</sup> Amendment to Interlocal Agreement for the Roadway Repair ("Amendment") is made this <sup>2<sup>nd</sup></sup> day of ~~August~~ <sup>September</sup>, 2010, by and between Hays County, a political subdivision of the State of Texas (hereinafter referred to as "County"), and in the City of Wimberley, Texas (hereinafter referred to as "City"). The above-cited parties are collectively referred to as "the parties to this Agreement" or "the parties."

Section 2.4 of the Agreement shall be amended as follows (words ~~stricken through~~ represent deletions and underlined words represent additions):

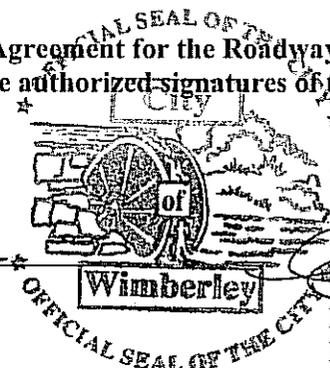
County Road System Roadways. In regard to all roads within the City limits ... that are identified by County as roads that are part of or integral to the County Road System... the Parties agree as follows:

1. County shall be responsible for providing the labor and equipment required for maintenance and repair of ... County Roads.
2. ~~City agrees to pay for all actual material costs related to the maintenance and repairs of County Roads.~~ City shall, unless otherwise approved by the Hays County Commissioners Court, contribute funding toward the materials for reconstruction and resurfacing of the portion(s) of County Roads that lie within the corporate limits. Whether or not City determines to contribute funding toward a project, the City may, after request by County, consent to the County's reconstruction and resurfacing of County Roads that lie within the corporate limits. If City consents but does not contribute funding toward a project, then County shall bear the costs of materials if and when it performs the reconstruction and resurfacing.
3. ... (unchanged)
4. ... (unchanged)
5. If City requests that County perform the reconstruction, resurfacing and/or upgrade of a specific ... County Road under ... this Agreement and the Hays County Commissioners Court has not approved its own payment of all project costs as cited in Section b, above, County shall provide an estimate to City for the proposed reconstruction, resurfacing and/or upgrade work, and the parties shall follow the procedures set forth for City Roads, below. County's estimate under this section shall account for the cost of materials it would take to reconstruct, resurface, and/or upgrade that specific ... County Road to the county standard, plus the reasonable cost of materials, labor, and equipment it would take to reconstruct, resurface, and/or upgrade that specific ... County Road to a higher quality or higher standard than is customarily performed by County on other county roads within Hays County.

EXCEPT FOR THE ABOVE MODIFICATIONS, ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT SHALL REMAIN UNCHANGED, UNLESS PROPERLY MODIFIED BY SUBSEQUENT AMENDMENT UNDER THE TERMS OF THE AGREEMENT.

This 1<sup>st</sup> Amendment to Interlocal Agreement for the Roadway Repair is hereby executed this the <sup>2<sup>nd</sup></sup> day of ~~August~~ <sup>Sept.</sup>, 2010, as is evidenced by the authorized signatures of the Parties, below.

CITY  
Bob Floche  
TOM HALEY, MAYOR  
BOB FLOCKE



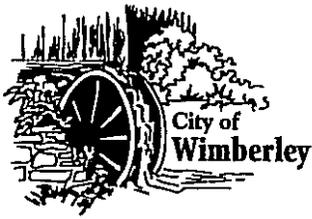
COUNTY  
[Signature]  
HAYS COUNTY, TEXAS  
LIZ SUMTER  
HAYS COUNTY JUDGE

ATTEST: [Signature]  
CITY CLERK

ATTEST: [Signature]  
LINDA FRITSCH  
HAYS COUNTY CLERK



ROAD NAME	TIME	OPERATOR LABOR	EXPENSES	EQUIP USAGE & FUEL	EXPENSES	MATERIALS	EXPENSES	
ROCKY SPRINGS 300'X24' RECLAIM ANND ADD BASE,PROCESS, FINISH,& PAVE REPLACE CULVERT	6 DAYS	6 MAN CREW \$34.50/HR/MAN	\$9,936	6 VEHICLES HRS @ \$46/HRS	\$13,248	FLEX BASE	\$2,446	
	1 DAYS	11 MAN PAVING CREW \$34.50/HR/MAN	\$3,795	PAVING EQUIPMENT 4HRS @ \$645/HR	\$2,580	200 TONS @ \$12.23/TN	\$300	
						#3 ROCK	\$270	
						#4ROCK	\$204	
						PAVING OIL	\$2,100	
						700 GALS @ \$3/GAL	\$900	
						3 DESIGN II 20' @ \$15/ft	\$58	
						2 BANDS @ \$28.94/pc		
			\$13,731		\$15,828		\$6,278	<b>PROJECT COST</b>
								<b>\$35,837</b>
								<b>ADMINISTRATIVE COST</b>
ADMINISTRATIVE PROCESSING FEE			\$500					<b>\$500</b>
								<b>TOTAL COST</b>
								<b>\$36,337</b>



**AGENDA ITEM:** HMGP Elevation Surveys  
**SUBMITTED BY:** Shawn Cox, City Administrator  
**DATE SUBMITTED:** April 15, 2019  
**MEETING DATE:** April 18, 2019

## AGENDA FORM

### ITEM DESCRIPTION/SUMMARY

As a result of the 2015 Memorial Day Flood, the City originally had ten (10) properties which qualified for assistance from FEMA's Hazard Mitigation Grant Program (HMGP). The program provided for buyouts or elevations of the properties. Of the 10 qualifying properties, four (4) were to be bought out and six (6) were to be elevated.

As the project currently stands, there are five (5) properties which still qualify. The others have either been sold, already repaired, or did not meet eligibility requirements.

In September 2018, Council approved spending \$4,250 to have the required surveys completed. The surveys have been completed, but the City is required by the HMGP project to pay the full invoice of \$13,380. After this has been paid the City can seek reimbursement for 75% of the costs (\$10,035). Once reimbursed, the City will have only paid \$3,345, \$905 less than originally thought.

### REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

### FINANCIAL

Budgeted Item

Non-budgeted Item

Not Applicable

Original Estimate/Budget: \$ 4,250.00

Current Estimate: \$ 13,380.00

Amount Under/Over Budget: \$ 9,130.00

### STAFF RECOMMENDATION

The City Administrator recommends approval of this item.



**AGENDA ITEM:** GLO Land Use Application Fees  
**SUBMITTED BY:** Shawn Cox, City Administrator  
**DATE SUBMITTED:** April 15, 2019  
**MEETING DATE:** April 18, 2019

## AGENDA FORM

### ITEM DESCRIPTION/SUMMARY

The City is completing the General Land Office Application for State Land Use Lease. The filing fee for this application is \$350. The completion of this application is one of the conditions for a Favorable Finding from the TWDB’s Environmental Review. The application is for a ten-year easement/lease for the installation of the wastewater line under Cypress Creek. No money will be due until invoiced from the GLO.

For consideration is Councils approval of an expenditure for \$2,350 related to the GLO application.

### REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

### FINANCIAL

Budgeted Item	<input type="checkbox"/>	Original Estimate/Budget:	\$
Non-budgeted Item	<input type="checkbox"/>	Current Estimate:	\$ 2,350.00
Not Applicable	<input checked="" type="checkbox"/>	Amount Under/Over Budget:	\$

### STAFF RECOMMENDATION

The City Administrator recommends approval of this item.



**AGENDA ITEM:** Friends of Blue Hole’s Playscape Shade Canopy Project  
**SUBMITTED BY:** Rebecca Manning  
**DATE SUBMITTED:** April 15, 2019  
**MEETING DATE:** April 18, 2019

## AGENDA FORM

### ITEM DESCRIPTION/SUMMARY

Friends of Blue Hole has completed raising funds for the canopy over the Blue Hole Regional Park playscape. In July 2017, Council voted unanimously to support of this FOBH project. FOBH is asking for support to use their raised funds to complete the project. This support would include waiving all City permit fees and accepting contractor, design, and project proposal from FOBH. All contractors met on site with FOBH Executive Director Susan Nenny and Parks Director Rebecca Manning. Completion of this project will be done with City staff oversight.

### REQUESTED ACTION

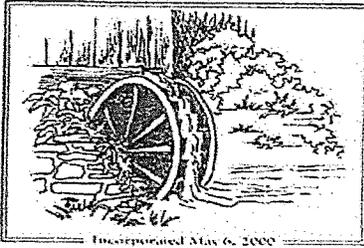
- Motion
- Discussion
- Ordinance
- Resolution
- Other

### 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

Staff recommends to approve this item.



# City of Wimberley

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

Phone: (512) 847-0025 - Fax: (512) 847-0422

[www.cityofwimberley.com](http://www.cityofwimberley.com)

Mac McCullough, Mayor - Steve Thurber, Mayor Pro-Tem  
Council Members - Craig Fore, Allison Davis, Gary Barchfeld & Roberta Holland

July 17, 2017

Susan Nenney  
Executive Director  
Friends of Blue Hole  
P.O. Box 1601  
Wimberley, TX 78676

To the Board of Friends of Blue Hole,

It is our understanding that Friends of Blue Hole is interested in raising the capital to construct a shade structure over the playscape at Blue Hole Regional Park, as well as shading two picnic tables.

We understand you have the unanimous endorsement of the Parks and Recreation Advisory Board.

The community and the council have an interest in this opportunity to increase the year-round usability of this park feature for parents, kids and grandkids.

We absolutely endorse this project.

Sincerely,

Herschel P. "Mac" McCullough  
Mayor



April 1, 2019

Shawn Cox  
City Administrator  
City of Wimberley

Dear Shawn,

The exciting news is that the community fundraising campaign for the play area project at the Blue Hole Park playscape has been a success. Thanks to many local donors, we now have the funds for the main playscape shade canopy. We have applied for a grant and may receive funds this spring to slightly expand the project.

Attached is a contract from T.F. Harper for the main canopy, a project approved by the previous city council and the Parks Board.

As Mr. Harper notes, once the contract is approved, it takes about 10 weeks to get all materials ordered and received.

Please let me know what are next steps and how we can proceed to get this shade canopy installed as soon as possible this summer. Lots of families and kids will be happy to see it.

Thanks for your help. I'm happy to provide more information as you need.

Susan Nenney  
Executive Director

Chair Andrew Weber | Founding Director Peter Way  
David Berman | Jim Braniff | Sheryl Davis | Bob Dussler | Tevis Grinstead | Mel Hildebrandt  
Stephen Klepfer | Suzanne McCord | Andy Sansom | Steve Thurber | Marilee Wood  
Executive Director Susan Nenney



**PROPOSAL**

103 Red Bird Lane  
Austin, Texas  
78745-3122

TO: City of Wimberley - Friends of Blue Hole  
Attn: Shawn Cox - Susan Nenny  
Address: Wimberley, Texas  
Install Site: Blue Hole Park  
Phone: 512-289-8166  
Email: [scox@cityofwimberley.cm](mailto:scox@cityofwimberley.cm)  
[snenney@gmail.com](mailto:snenney@gmail.com)

**BUYBOARD CONTRACT #512-16**

PLEASE FAX YOUR PO & SIGNED QUOTE TO  
BUYBOARD & T.F. HARPER & ASSOCIATES LP TO  
INSURE COMPLIANCE & RECEIPT OF YOUR  
ORDER.

PROPOSAL# 040119-tfh-111  
DATE: April 1, 2019

**Shade Options - Blue Hole Park**

Item	DESCRIPTION OF EQUIPMENT	PROPOSAL
I	Modern Shade Windmill 36' x 36', 14' eave	\$22,205.00
	At Playground Area	
	Installation	\$8,995.00
	Freight	\$350.00
	Buyboard Discount	(\$888.00)
	<b>Total</b>	<b>\$30,662.00</b>
	Sealed Engineered Drawings for Shade Canopies if Required \$750.00 Each	
<b>NOTE:</b>	Permits, if required, can be obtained but are not included in pricing	

**PRICING GOO FOR 45 DAYS FROM THE PROPOSAL DATE**

**PRICING IS BASED ON GOOD ACCESS TO WORK AREAS BY TRUCK / BOBCAT.**

**PRICING IS BASED ON DRILLING THRU DIRT. DRILLING THRU CONCRETE, ROCK, ASPHALT WILL INCUR EXTRA CHARGES.**

**NOT INCLUDED:** Permits/Bonds/Fees (if required), Site Work in Excess of Normal Installation (example: site prep - excavation/infill, concrete slab, french drains, excess rock removal, landscaping), Any Necessary Tree Trimming.

**Payment Terms:** 50% due with signed quote; Balance due upon completion of work and receipt of invoice  
Credit card payments are not accepted.

**Estimated Delivery & Installation:** 11 - 13 weeks after receipt of signed quote or purchase order & color selections.

Thank you for giving us the opportunity to quote this equipment.

Tommy Harper



**AGENDA ITEM:** Disannexation – 801 Wayside Drive  
**SUBMITTED BY:** Shawn Cox, City Administrator  
**DATE SUBMITTED:** April 15, 2019  
**MEETING DATE:** April 18, 2019

## AGENDA FORM

### ITEM DESCRIPTION/SUMMARY

The property owner at 801 Wayside Drive, Carl Leinnewebber, has requested that his property of approximately 90 acres be disannexed under Sec. 43.144 of the Texas Local Government Code. Sec. 43.144 reads as follows:

Sec. 43.144. DISANNEXATION OF SPARSELY POPULATED AREA IN GENERAL-LAW MUNICIPALITY.

(a) The mayor and governing body of a general-law municipality by ordinance may discontinue an area as a part of the municipality if:

- (1) the area consists of at least 10 acres contiguous to the municipality; and
- (2) the area:

(A) is uninhabited; or

(B) contains fewer than one occupied residence or business structure for every two acres and fewer than three occupied residences or business structures on any one acre.

(b) On adoption of the ordinance, the mayor shall enter in the minutes or records of the governing body an order discontinuing the area. The area ceases to be a part of the municipality on the date of the entry of the order.

### 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)**

- 801 Wayside Drive Disannexation Request
- Ordinance No. 2019-10
- City Limits Map

April 3, 2019

Mr. Shawn Cox, MPA  
City Administrator  
City of Wimberley  
P O Box 2027  
Wimberley TX 78676

Dear Mr. Cox,

I am requesting that my property on Wayside Dr. be de-annexed from the City of Wimberley. This property consist of 90 acres of farm and grazing land with 2 occupied dwellings that is contiguous to the City of Wimberley. It is located 2.7 miles west of Downtown Wimberley, It is the most western part of the city limits

My property meets the test laid out in the Texas Local Government Code Section 43.144.

As requested I have enclosed a survey of my land including survey field notes.

Please let me know if there is any further information that you need

Sincerely,



Carl Leinneweber

P O Box 1983

Wimberley TX 78676

512-748-7932

512-748-7937

nleinneweber@yahoo.com

EXHIBIT "A"

A

FIELD NOTES DESCRIBING 1.95 ACRES OF LAND, MORE OR LESS, OUT OF THE JAMES HUGHES SURVEY No. 12, BEING A PORTION OF THAT 318.88 ACRE TRACT OF LAND DESCRIBED AND RECORDED IN VOLUME 169, PAGE 139, HAYS COUNTY DEED RECORDS, AND SAID 1.95 ACRES BEING THAT SAME TRACT OF LAND CALLED 2.00 ACRES, AS DESCRIBED AND RECORDED IN VOLUME 448, PAGE 3, HAYS COUNTY DEED RECORDS; SAVE AND EXCEPT THAT 0.021 ACRE TRACT AS DESCRIBED AND RECORDED IN VOLUME 1259, PAGE 537, HAYS COUNTY OFFICIAL PUBLIC RECORDS AND SAID 1.95 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOW;

BEGINNING at an iron pin with an aluminum cap found, on the North line of the afore mentioned JAMES HUGHES SURVEY No. 12, said iron pin bears N 89°-50'-00" E, a distance of 364.37 feet from the record Northwest corner of the afore mentioned 2.00 acre tract, the record Northeast corner of a 49.99 acre tract as described and recorded in Volume 309, Page 732, Hays County Deed Records, and the record Northeast corner of a 50 foot wide Road Easement as described and recorded in Volume 378, Page 410, Hays County Deed Records, said iron pin with an aluminum cap found being the Northeast corner of the herein described parcel and the POINT OF BEGINNING for this description;

THENCE, S 02°-16'-11" E, a distance of 237.49 feet to an iron pin with an aluminum cap found, for the Southeast corner of the herein described parcel;

THENCE, S 89°-50'-00" W, a distance of 364.37 feet to an iron pin with an aluminum cap found at the base of a wood fence post on an East line of the afore mentioned 49.99 acre tract, also being on the East line of the afore mentioned 50 foot wide Road Easement;

THENCE, with the East line of the 49.99 acre tract, the East line of the said 50 foot wide Road Easement, N 02°-16'-11" W, a distance of 211.61 feet to a 1/2" iron pin found near the base of a wood fence post, on the South right-of-way line of County Road 179, locally known as Wayside Drive, for the Southwest corner of that 0.021 acre tract of land conveyed to Hays County, as described and recorded in Volume 1259, Page 537, Hays County Official Public Records for the most Westerly Northwest corner of the herein described parcel;

THENCE with the South line of Wayside Drive, along a curve to the left having a central angle of 10°-21'-49", a radius of 510.00 feet, an arc length of 92.25 feet and a chord that bears N 73°-17'-02" E distance of 92.15 feet to a 1/2" iron pin with a plastic cap set on the North line of the afore mentioned 2.00 acres, being the most Northerly Northwest corner of the herein described parcel;

THENCE, N 89°-50'-00" E, a distance of 274.64 feet to the POINT OF BEGINNING containing 1.95 acres of land, more or less. Surveyed November 6, 2000. These field notes accompany a plat, job number 001104. The record South line of this parcel was used as a basis for bearing and the actual bearings and measurements of this survey vary slightly from those of record in Volume 448, Page 3, Hays County Deed Records.

Page one of one Wayside1865.fld 001104 cb

Raymond V. Kotowski



B

FIELD NOTES  
OF

A 48.0321 ACRE TRACT OF LAND, BEING 13.2616 ACRES OUT OF THE JOHN WARREN SURVEY NO. 3, 8.9412 ACRES OUT OF THE JAMES HUGHES SURVEY NO. 12, 25.8293 ACRES OUT OF THE ROBERT Mc COMBS SURVEY NO. 13 AND BEING A PORTION OF THAT CERTAIN CALLED 316.88 ACRE TRACT AS RECORDED IN VOLUME 169, PAGE 139 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, TO-WIT;

BEGINNING at an iron stake found at a fence corner for the northeasterly corner of said Hughes Survey, northwesterly corner of said Mc Combs Survey, southeasterly corner of Leon Dyer Survey No. 4 and the southwesterly corner of the said John Warren Survey;

THENCE with the common fenced boundary line between said Dyer Survey and John Warren Survey, North  $00^{\circ} 23' 00''$  East a distance of 437.7 feet to an iron stake set in the center of a public road for the northwesterly corner of the tract herein described;

THENCE with said public road, North  $38^{\circ} 07' 37''$  East a distance of 98.7 feet to an iron stake set for an angle point;

THENCE North  $55^{\circ} 13' 02''$  East a distance of 100.0 feet to an iron stake set at an angle point;

THENCE North  $67^{\circ} 11' 59''$  East a distance of 100.0 feet to an iron stake set for an angle point;

THENCE North  $86^{\circ} 54' 07''$  East a distance of 698.24 feet to an iron stake found for the northwesterly corner of a road boundary;

THENCE with the westerly boundary line of said road, South  $02^{\circ} 35' 26''$  East a distance of 1893.20 to an iron stake found at a fence corner for the most southerly corner of the tract herein described;

THENCE with a fence line, North  $78^{\circ} 16' 18''$  West a distance of 1846.03 feet to an iron stake found at an angle point;

THENCE North  $77^{\circ} 38' 12''$  West a distance of 680.37 feet to an iron stake found at a fence corner for the southwesterly corner of the tract herein described;

THENCE North  $02^{\circ} 20' 02''$  West a distance of 679.28 feet to an iron stake found at a fence corner for the most westerly corner of the tract herein described;

THENCE with a fence line, North  $89^{\circ} 13' 28''$  East a distance of 364.42 feet to an iron stake found at a fence corner;

THENCE North  $02^{\circ} 51' 27''$  West a distance of 237.49 feet to an iron stake found at a fence corner;

THENCE North  $88^{\circ} 28' 31''$  East a distance of 147.15 feet to the point of BEGINNING of the tract herein described, as surveyed March 23, 1989, by Woodrow Cash, Registered Public Surveyor.

*Woodrow Cash*

STATE OF TEXAS  
COUNTY OF HAYS  
I hereby certify that this instrument was FILED on  
the date and at the time stamped hereon by me and was duly  
RECORDED, in the Volume and Page of the named RECORDS  
of Hays County, Texas, as stamped hereon by me.

SEP 22 1993



*Daniel D. Daugherty*  
COUNTY CLERK  
HAYS COUNTY, TEXAS

EXHIBIT "A"

338 30

# PRO-TECH ENGINEERING GROUP

I N C O R P O R A T E D

p. o. box 1004

san marcos, texas 78666

(512) 392-3391

EXHIBIT "A"  
FIELD NOTE DESCRIPTION  
OF  
A SURVEY OF  
40.16 ACRES OF LAND  
OUT OF THE  
ROBERT McCOMBS SURVEY NO. 13  
AND THE  
JOHN WARREN SURVEY NO. 3  
HAYS COUNTY, TEXAS

C  
VOL. 334 37

BEING A PORTION OF THAT 316.88 ACRE TRACT OF LAND CONVEYED TO LLOYD C. LEINNEWEBER BY EMMETT E. COWAN BY DEED DATED OCTOBER 10, 1956, AND RECORDED IN VOLUME 169, PAGE 139, HAYS COUNTY DEED RECORDS, AND BEING APPROXIMATELY 23.4 ACRES OF LAND, MORE OR LESS, OUT OF THE ROBERT McCOMBS SURVEY NO. 13, AND APPROXIMATELY 16.8 ACRES OF LAND, MORE OR LESS, OUT OF THE JOHN WARREN SURVEY NO. 3, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, TO-WIT:

BEGINNING at the most Easterly Northeast corner of the said Leinneweber 316.88 acre tract for the Northeast corner of the tract herein described, same being at the intersection of the approximate centerline of a County Road with the projection of the fence line on the East line of the said Leinneweber 316.88 acre tract, same being the Southeast corner of that 8.63 acre tract of land conveyed to Richard C. Gibson by W. D. Murphy by deed dated May 2, 1959, and recorded in Volume 177, Page 364, Hays County Deed Records, the South corner of that 25.01 acre tract of land conveyed to J. D. Beckham by Johnnie L. McNeill Trust, by deed dated May 15, 1978, and recorded in Volume 310, Page 458, Hays County Deed Records, and the most Westerly Northwest corner of that 116.48 acre tract of land conveyed to Raymond L. Czichos by Josephine Tate by deed dated September 18, 1967, and recorded in Volume 220, Page 1, Hays County Deed Records, same also being on the East line of the said John Warren Survey No. 3 and the West line of the George G. Blackwell Survey No. 2;

THENCE, leaving the approximate centerline of the said County Road, the said Gibson 8.63 acre tract, and the said Beckham 25.01 acre tract, with the projection of fence line and fence, same being the West line of the said Czichos 116.48 acre tract and the said Warren-Blackwell Survey line, the following courses numbered (1) thru (3):

- (1) S 00° 07' E, at 32.24 feet, joining fence, and continuing on in all, 300.83 feet, to a fence post;
- (2) S 00° 17' W, 264.20 feet, to a fence post;
- (3) S 00° 05' W, at about 116 feet, passing an Overhead Power Transmission Line, at about 125 feet, passing the relocated Southeast corner of the said Warren Survey, same being a relocated Northeast corner of the said McCombs Survey, and continuing on, with the McCombs-Blackwell Survey line, in all 285.37 feet, to a corner fence post at the Southwest corner of the said Blackwell Survey;

THENCE, leaving fence, and the said Blackwell Survey with the West line of the said Czichos 116.48 acre tract, S 00° 23' W, 55.90 feet, to an iron stake found for a reentrant corner of the tract herein described, same being the Southwest corner of the said Czichos 116.48 acre tract;

THENCE, with a South line of the said Czichos 116.48 acre tract, S 89° 03' E, 46.17 feet, to an 18 inch Cedar Stump found at fence corner for the most Easterly corner of the tract herein described, same being the most Northerly Northwest corner of that 597 acre tract conveyed to S. J. Leach by B. D. Bell by deed dated January 19, 1944, and recorded in Volume 129, Page 253, Hays County Deed Records;

THENCE, with fence, a West line of the said Leach 597 acre tract, the following courses numbered (4) and (5):

- (4) S 32° 45' W, 219.32 feet, to an iron stake set;
- (5) S 00° 03' W, 322.01 feet, to an iron stake set for the Southeast corner of the tract herein described;

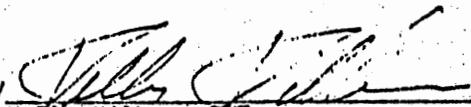
334 38

THENCE, leaving fence, and the said Leach 597 acre tract, N 89° 56' W, 1343.71 feet, to an iron stake set for the Southwest corner of the tract herein described;

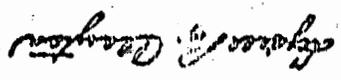
THENCE, N 02° 34' W, at about 322 feet, passing the aforementioned Overhead Power Transmission Line, at about 723 feet, passing the relocated North line of the aforementioned McCombs Survey, same being the relocated South line of the aforementioned Warren Survey, at 1343.42 feet, passing an iron stake set on the South side of a County Road, and continuing on in all 1368.50 feet, to an iron stake set in the approximate centerline of the said County Road, for the Northwest corner of the tract herein described;

THENCE, with the approximate centerline of the said County Road, the following courses numbered (6) thru (12):

- (6) N 82° 45' E, 152.22 feet, to an iron stake set;
- (7) S 74° 31' E, 644.84 feet, to an iron stake set;
- (8) S 54° 23' E, 245.29 feet, to an iron stake set;
- (9) S 84° 16' E, 188.55 feet, to an iron stake set;
- (10) N 62° 52' E, 198.80 feet, to an iron stake set;
- (11) N 34° 35' E, 151.02 feet, to an iron stake set;
- (12) N 21° 35' E, 155.42 feet, to the POINT OF BEGINNING containing 40.16 acres of land. Surveyed June, 1979.

By   
Kelly Kijber, P.E.

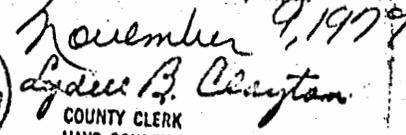
LLOYD C. LEINNEWEBER  
FB 87 PG 18  
PLAN 2715  
EO 77-13467

COUNTY CLERK  


79 NOV 8 PM 1 58  
HAYS COUNTY, TEXAS  
FILED

STATE OF TEXAS }  
COUNTY OF HAYS }

I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me; and was duly RECORDED in the Volume and Page of the named RECORDS of Hays County, Texas, as stamped hereon by me, on

November 9, 1979  
  
Lloyd B. Clayton  
COUNTY CLERK  
HAYS COUNTY, TEXAS



5113  
64-27





**ORDINANCE NO. 2019-10**

**AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS DISANNEXING AN AREA OF APPROXIMATELY 90 ACRES CONTIGUOUS TO THE CITY LIMITS, GENERALLY KNOWN AS 801 WAYSIDE DRIVE, AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALER, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.**

**WHEREAS**, the Texas Local Government Code Chapter 43, Section 43.144 (the “Code”) authorizes a general law municipality to disannex a sparsely populated area if (1) the area consists of at least 10 acres contiguous to the municipality; and (2) the area: (A) is uninhabited; or (B) contains fewer than one occupied residence or business structure for every two acres and fewer than three occupied residences or business structures on any one acre; and

**WHEREAS**, the owners of an area of approximately 90 acres contiguous to the City generally known as 801 Wayside Drive (the “Area”) has requested disannexation; and

**WHEREAS**, the City Council of the City of Wimberley hereby finds and determines that the area consists of at least 10 acres contiguous to the municipality and contains fewer than one occupied residence or business structure for every two acres and fewer than three occupied residences or business structures on any one acre; and

**WHEREAS**, the disannexation as provided for in this ordinance is a valid exercise of the City’s authority under the Code; and

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

**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. DISANNEXATION**

The City Council hereby disannexes the Area composed of the three (3) separate tracts described in the attached Exhibit “A”, generally known as 801 Wayside Drive, and hereby relinquishes any and all right, jurisdiction or control over the above-described area of land as a part of the City’s corporate limits, but retains its extraterritorial jurisdiction, rights and control.

Upon adoption of this Ordinance the Mayor hereby orders the discontinuance of the Area and said order shall be entered in the minutes of the City Council meeting minutes at which this Ordinance was adopted.

### **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** this 18<sup>th</sup> day of April, 2019, by a vote of (Ayes) to (Nays) (Abstain) vote of the City Council of the City of Wimberley, Texas.

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Susan Jagers, Mayor

ATTEST:

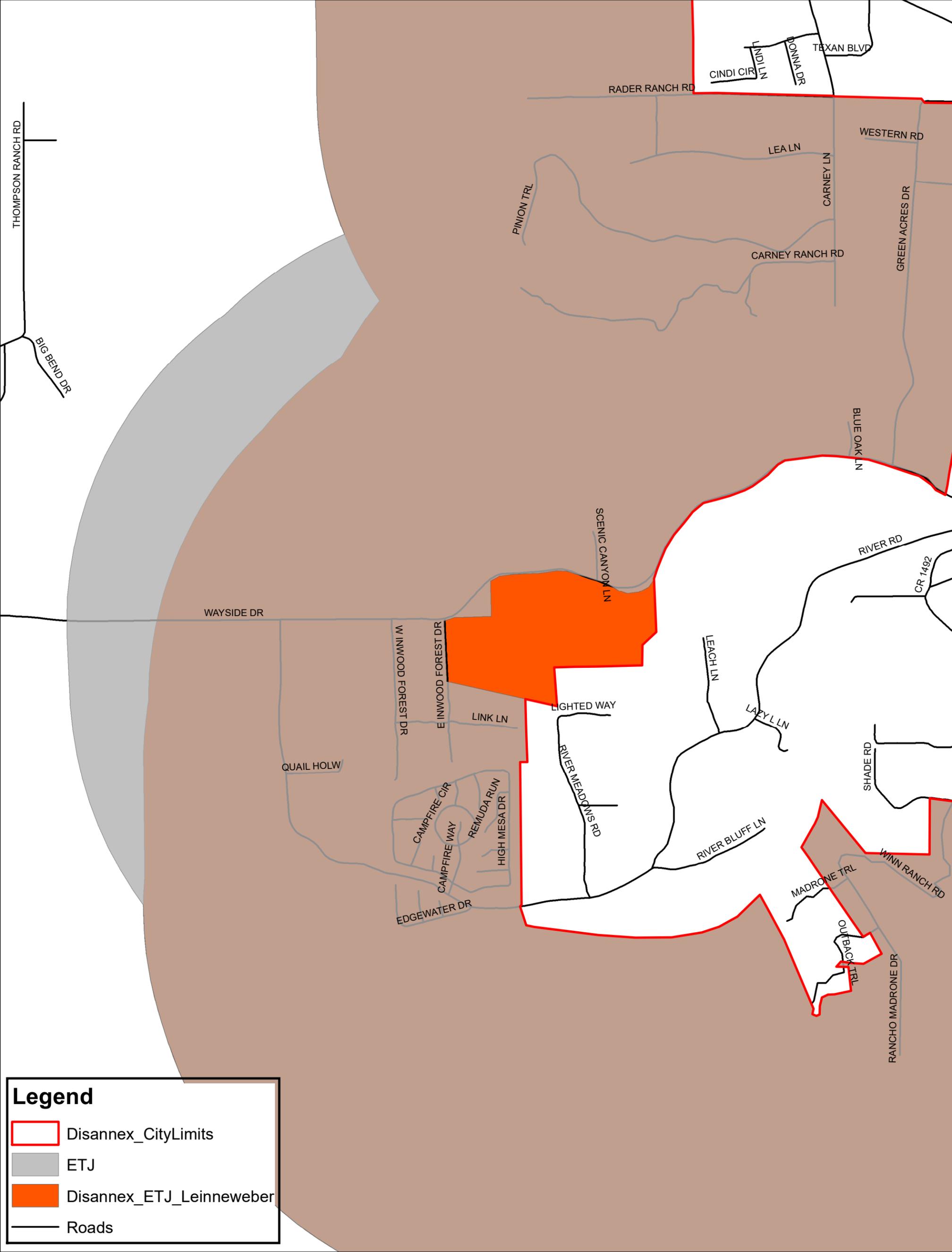
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Laura Calcote,  
City Secretary

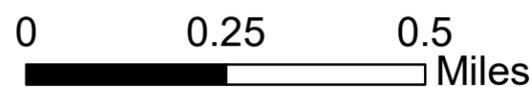
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City Attorney





## City of Wimberley Proposed Disannexation



DISCLAIMER: This map is not of survey quality and is not an authoritative representation of any properties located on the ground; this should be used only as a general reference map. The City of Wimberley assumes no liability as a result of misuse or misinterpretation of any data represented hereon. No warranty is expressed or implied regarding accuracy or completeness.