REGULAR CITY COUNCIL MEETING PACKET

Thursday, October 4, 2018

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, OCTOBER 4, 2018 – 5:30 P.M.

AGENDA

1. **CALL TO ORDER** October 4, 2018 at 5:30 p.m.

2. **CALL OF ROLL** City Secretary

3. **INVOCATION**

4. **PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG**

5. **PROCLAMATION**

   Proclamation of the City of Wimberley, Texas proclaiming the month of October 2018 as National Domestic Violence Awareness Month.

6. **CITIZENS COMMUNICATIONS**
   The City Council welcomes comments from citizens who have a direct stake in the business of the city, such as a landowner, resident, vendor or business owner on issues and items of concern, not on this agenda. Those wishing to speak must sign in before the meeting begins and observe a three-minute time limit when addressing Council. Speakers will have one opportunity to speak during the time period. Speakers desiring to speak on an agenda item will be allowed to speak when the agenda item is called. Inquiries about matters not listed on the agenda will either be directed to staff or placed on a future agenda for Council consideration. Comments from speakers should not be directed towards any specific member of City Council or City staff. Comments should not be accusatory, derogatory or threatening in nature.

7. **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 551.074 (Personnel Matters) City Council will meet to deliberate the appointment, employment, evaluation, reassignment duties, discipline or dismissal of a public officer or employee: City Administrator Shawn Cox.

B. Executive Session pursuant to Texas Government Code, Section 551.071(Consultation with Attorney) City Council will seek advice from the City Attorney on a matter in which the duty of the attorney to the City under the Texas Disciplinary Rules of Professional Conduct clearly conflicts with the Texas Open Meetings Act.

8. CONSENT AGENDA

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

A. Approval of minutes from the Special City Council Meeting held September 18, 2018.

B. Approval of minutes from the Regular City Council Meeting held September 20, 2018.

C. Approval of minutes from the Special City Council Meeting held September 25, 2018.

9. CITY ADMINISTRATOR REPORT

Update regarding the status of the Central Wimberley Wastewater Project, City road projects and code compliance issues

10. DISCUSSION AND POSSIBLE ACTION

A. Discuss and consider possible action regarding a request to operate a food service trailer at 411 FM 2325 in Wimberley, Texas.

B. Discuss and consider possible action regarding plans for a Family Halloween night on October 31st on private property along Old Kyle Road.

C. Discuss and consider possible action regarding to approve two bids from Mow Town Lawn Service in an amount not to exceed $9,350 for tree trimming.

D. Discuss and consider possible action to approve Capital Excavation's amended Contractor's Modification Request No. 1 for materials testing.

E. Discuss and consider possible action to approve Capital Excavation's Contractor's Modification Request No. 2 for cement stabilized backfill.

F. Discuss and consider possible action regarding issues related to the Texas Water Development Board (TWDB) including, but not limited to, status of TWDB approval of change of scope of the Wimberley Wastewater project, discussion of meeting(s) with TWDB, by the Mayor, and/or City Council members, and/or staff and/or citizens.

G. Discuss and consider possible action to appoint members to the Tourism Management and Development Committee.

H. Discuss and consider possible action regarding the MindEcology contracts, services and performance.

I. Discuss and consider possible action regarding the status of the collection notice sent to the Wimberley Convention and Visitors Bureau Foundation in the amount of $38,590, due to breach of services contract.

11. CITY COUNCIL REPORTS

A. Announcements

B. Future agenda items

12. ADJOURNMENT

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

CERTIFICATION

I hereby certify the above Notice of Meeting was posted on the bulletin board at Wimberley City Hall, a place convenient and readily accessible to the general public at all times, and to the City's website, www.cityofwimberley.com, in compliance with Chapter 551, Texas Government Code, on Monday, October 1, 2018, by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Laura J. Calcote

Laura J. Calcote, City Secretary

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

City of Wimberley

Incorporated May 6, 2000

Proclamation

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

WHEREAS, the crime of domestic violence violates the basic human rights of safety and dignity, and 146 women were killed due to domestic violence in Texas including 183 children lost a parent; and

WHEREAS, the problems of domestic violence and teen dating violence are not confined to any group of people, but cut across all economic, racial, gender and societal barriers; and

WHEREAS, the impact of domestic violence and teen dating violence directly affects individuals and communities when society ignores or tolerates violence in relationships; and

WHEREAS, women and men need to work together to bring safety and equality; and

WHEREAS, the Hays County Sheriff's Office, San Marcos Police Department, Kyle Police Department and Buda Police Department and Hays County District Attorney's Office are partnering with the Hays-Caldwell Women's Center to promote Domestic and Teen Dating Violence Awareness in our local communities and in our area High Schools and;

WHEREAS, last year HCWC provided face-to-face services to over 1,024 local victims of domestic violence and provided 7,057 days of shelter; and

WHEREAS, last year HCWC provided these direct services to 32 victims from The City of Wimberley, and

NOW, THEREFORE, I, Susan Jaggers, by virtue of the authority vested in me as Mayor of Wimberley, Texas do hereby proclaim the month of October 2018 as

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

And call upon the people of Wimberley to work together with HCWC and local partners to bring an end to domestic violence and teen dating violence.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the City of Wimberley, Texas to be affixed this 4th day of October 2018.

CITY OF WIMBERLEY

_____
Susan Jaggers, Mayor

AGENDA ITEM:	**Consent Agenda**
SUBMITTED BY:	Laura Calcote
DATE SUBMITTED:	October 1, 2018
MEETING DATE:	October 4, 2018

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

- Approval of minutes from the Special City Council Meeting held September 18, 2018.
- Approval of minutes from the Regular City Council Meeting held September 20, 2018.
- Approval of minutes from the Special City Council Meeting held September 25, 2018.

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-C.

City of Wimberley

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

SPECIAL CITY COUNCIL MEETING
WIMBERLEY CITY HALL – CITY COUNCIL CHAMBERS
221 STILLWATER, WIMBERLEY, TEXAS 78676
TUESDAY, SEPTEMBER 18, 2018 – 5:30 P.M.

MINUTES

DRAFT

CALL TO ORDER
Mayor Susan Jaggers called the meeting to order at 5:30 p.m.

CALL OF ROLL

Council Members Present:	Susan Jaggers	Mayor
	Craig Fore	Place Two
	Gary Barchfeld	Place Four
	Patricia Cantu Kelly	Place Five
Council Members Absent:	Mike McCullough	Place One
	Allison Davis	Place Three
City Staff Present:	Shawn Cox	City Administrator
	Laura Calcote	City Secretary
	Rebecca Manning	Parks Director
	Terri Provost	Community Center Director
	John Provost	Public Works Superintendent

BUDGET WORKSHOP
City Administrator Shawn Cox and City staff discussed the Fiscal Year (FY) 2019 Budget with City Council members, including the General Fund, Blue Hole Fund, Blue Hole Development Fund, Wastewater Fund, Municipal Court Fund and the Sidewalk Fund.
No action was taken.

(Council Member Patricia Cantu Kelly left the meeting at 6:30 p.m.)

ADJOURNMENT
Motion to adjourn the meeting at 6:40 p.m. was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (3-0).

RECORDED BY:

_____

Laura J. Calcote, City Secretary

APPROVED BY:

_____

Susan B. Jaggers, Mayor

DRAFT

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, SEPTEMBER 20, 2018 – 5:30 P.M.

MINUTES

CALL TO ORDER
Mayor Susan Jaggers called the meeting to order at 5:32 p.m.

CALL OF ROLL

Council Members Present:	Susan Jaggers	Mayor
	Craig Fore	Place Two
	Allison Davis	Place Three
	Gary Barchfeld	Place Four
	Patricia Cantu Kelly	Place Five
Council Members Absent:	Mike McCullough	Place One
City Staff Present:	Shawn Cox	City Administrator
	Laura Calcote	City Secretary
	Rebecca Manning	Parks Director
	Sandy Floyd	Planning & Development Coordinator/GIS Analyst
	John Provost	Public Works/Code Enforcement Superintendent

INVOCATION
Council Member Gary Barchfeld gave the invocation.

PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG
Mayor Susan Jaggers led the pledges to the United States and Texas flags.

PROCLAMATIONS
Mayor Susan Jaggers read aloud the two proclamations. Deputy Mark Andrews accepted the National Night Out proclamation, and three representatives from the National Society Daughters of the American Revolution accepted the Constitution Week proclamation.

A. Proclamation of the City of Wimberley, Texas proclaiming Tuesday, October 2, 2018, as National Night Out.

B. Proclamation of the City of Wimberley, Texas proclaiming the week of September 17th through September 23rd as Constitution Week.

PRESENTATIONS AND POSSIBLE ACTION

A. Presentation and consider possible action regarding the status of the Short-Term Rental Review Committee and recommendation for STR software.
(This item was heard under Discussion and Possible Action – Item No. B.)

B. Presentation and consider possible action regarding the Wimberley Valley Radio and Friends of Blue Hole community event at Blue Hole Regional Park.
John Brown from Wimberley Valley Radio presented a community-wide event set for Saturday, October 13th, at Blue Hole Regional Park. The event would be hosted by the Wimberley Valley Radio station and the Friends of Blue Hole to bring the Wimberley community together. The two organizations were requesting the fees for the event be waived at the Park, since the event would benefit the community as a whole.
There was discussion among Council members regarding the event and the associated cost for having the event at the Park, which amounted to around $1,000.
Motion to waive the $750 facility rental fee at Blue Hole Regional Park, and to have the Wimberley Valley Radio and Friends of Blue Hole pay $250 for staffing the event was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Allison Davis. Motion carried unanimously (4-0).

CITIZENS COMMUNICATIONS

There were 4 citizens comments. They were as follows:
1. Nanette Mackenroth invited Council and the audience to the Keep Wimberley Strong Health Fair on Saturday, September 29th, from 10:00 a.m. to 4:00 p.m. at the Wimberley Community Center.

2. Rebecca Reisberg spoke regarding City Council's recent motion on August 28th to cancel the Black Castle contract and remove Blue Hole Regional Park from the scope of the project. Ms. Reisberg requested to know details of the new plan, including funding, the Texas Water Development Board loan and when the Town Hall meeting that was promised by the Mayor would take place.

3. William Bowman read questions he had regarding the Central Wimberley Wastewater Project. These questions included the status of the cancellation of the Black Castle contract, the status of the Texas Water Development Board loan, back-up funding for the Project, the City's Certificate of Convenience and Necessity, user rates and a moving forward with Aqua Texas.

4. Bo Bowman addressed Council regarding the construction site of the plant for the Central Wimberley Wastewater Project that dirt that had been moved into at Blue Hole Regional Park. Mr. Bowman noted the environmental fencing at the southwest corner of the dirt was starting to deteriorate, and the site would have to be remediated to address this problem. He also stated if the dirt falls into Deer Creek that it might cause an environmental violation.

CONSENT AGENDA

Motion to approve items A, D, and E on the Consent Agenda was made by Council Member Allison Davis. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).
Motion to approve items B and C on the Consent Agenda was made by Council Member Allison Davis. Motion was seconded by Council Member Patricia Cantu Kelly. Motion carried as follows (3-0-1):

Craig Fore	**Aye**
Gary Barchfeld	**Aye**
Patricia Cantu Kelly	**Aye**
Allison Davis	**Abstain**

A. Approval of minutes from the Special City Council Meeting held August 28, 2018.

B. Approval of minutes from the Special City Council Meeting held September 4, 2018.

C. Approval of minutes from the Regular City Council Meeting held September 11, 2018.

D. Approval of the July 2018 Financial Statements for the City of Wimberley.

E. Approval of the cancellation of the December 20, 2018 Regular City Council Meeting.

CITY ADMINISTRATOR REPORT

City Administrator Shawn Cox provided an update regarding the status of the Central Wimberley Wastewater Project. Mr. Cox noted the crosscut on Ranch Road 12 had been completed and that Capital Excavation would be working on Old Kyle Road in the coming weeks. There was discussion among Council members and Mr. Cox pertaining to signage. Council Member Allison Davis asked Mr. Cox several questions regarding the Project, including but not limited to grant administration updates and the status of the Texas Water Development Board loan. There had been no changes to the financials for the Project since the last Council meeting. However, Mr. Cox noted a change order from Capital Excavation might be considered at a future meeting, but that there would be a cost savings for the City. Additionally, Mr. Cox updated Council on City road projects, including the Arrowlake Road Bridge, Hidden Valley Drive and tree trimming within the City.

PUBLIC HEARING AND POSSIBLE ACTION

Hold a public hearing and consider approval regarding case ZA-18-007, an application to change the zoning from Commercial-Low Impact (C-1) to Commercial-Moderate Impact (C-2) for property located at 110 Old Kyle Road, Wimberley, Hays County, Texas; and providing for the following: delineation on zoning map; findings of fact; severability; effective date and proper notice and meeting. *(Bert & Julie Ray, Applicants)*

Planning & Development Coordinator/GIS Analyst Sandy Floyd present the zoning change. The Planning and Zoning Commission had voted unanimously at their September 13th meeting to approve the change. The City had received no objections and three letters of support.

There was discussion among Council members pertaining to parking concerns in the area. Raquel Gottsch, owner of Rancho Queso, located at 110 Old Kyle Road, addressed Council regarding their concerns. Al Sander, the owner of the property to the right of the business, had offered his vacant lot for additional parking space. The C-2 zoning change would allow for more flexibility for Rancho Queso.

Mayor Susan Jaggers open the public hearing at 6:24 p.m.

There were no comments.

Mayor Susan Jaggers closed the public hearing at 6:24 p.m.

Motion to approve the zoning change was made by Council Member Craig Fore. Motion was seconded by Council Member Allison Davis. Council Member Patricia Cantu Kelly offered an amendment to the motion to add a letter from the business's neighbor to use

the vacant lot for additional parking. The amendment was accepted. Motion carried unanimously (4-0).

DISCUSSION AND POSSIBLE ACTION

A. Discuss and consider possible action regarding temporary signs for the 5-K Run-Walk for Barnabas Connection.
Public Works Superintendent John Provost presented the request to waive the ordinance requirement for four temporary signs to be placed more than seven days in advance of the 5-K Run-Walk for the Barnabas Connection on October 20th.
Motion to approve the placement of four temporary signs for more than seven days prior to the Barnabas Connection 5-K Run-Walk event on October 20th was made by Council Member Patricia Cantu Kelly. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (4-0).

B. Presentation and consider possible action regarding the status of the Short-Term Rental Review Committee and recommendation for STR software.
Short-Term Rental (STR) Review Committee Member Suzanne Davis presented the status of the STR Review Committee and the Committee's recommendation for STR software. There was lengthy discussion between Council members and Ms. Davis pertaining to the history and current state of short-term rentals within the corporate limits and extraterritorial jurisdiction, as well as the software that may assist in locating properties that are out of compliance. Council Member Allison Davis was interested in the methodology used by the Committee in locating these properties and the associated costs. The STR software could be beneficial for enforcement purposes. The software proposals would come before Council at a later date for consideration and possible action.
Motion to direct staff to move forward with Request for Proposals (RFPs) for short-term rental software was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Patricia Cantu Kelly. Motion carried unanimously (4-0).

C. Discuss and consider possible action to approve Ordinance No. 2018-34, repealing the hotel occupancy tax.
Motion to approve Ordinance No. 2018-34, repealing the hotel occupancy tax, was made by Council Member Patricia Cantu Kelly. Motion was seconded by Council Member Gary Barchfeld. Motion carried as follows (3-1):

Craig Fore	**Aye**
Gary Barchfeld	**Aye**
Patricia Cantu Kelly	**Aye**
Allison Davis	**Nay**

D. Discuss and consider possible action to approve Ordinance No. 2018-35, dissolving the Hotel Occupancy Tax Advisory Committee.
Motion to approve Ordinance No. 2018-35, dissolving the Hotel Occupancy Tax Advisory Committee, was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried as follows (3-1):

Craig Fore	**Aye**
Gary Barchfeld	**Aye**
Patricia Cantu Kelly	**Aye**
Allison Davis	**Nay**

E. Discuss and consider possible action to approve Ordinance No. 2018-36, creating the Tourism Management and Development Committee.
Council Member Patricia Cantu Kelly introduced Ordinance No. 2018-36, creating the Tourism Management and Development Committee. There was discussion regarding the new Committee's membership and tourism plan and goals. Council Member Allison Davis noted the Chamber of Commerce did not have a representative on the new Committee, and that she had concerns regarding the membership make-up.
Motion to approve Ordinance No. 2018-36, creating the Tourism Management and Development Committee, was made by Council Member Patricia Cantu Kelly. Motion was seconded by Council Member Gary Barchfeld. Motion carried as follows (3-1):

Craig Fore	**Aye**
Gary Barchfeld	**Aye**
Patricia Cantu Kelly	**Aye**
Allison Davis	**Nay**

CITY COUNCIL REPORTS

A. Announcements – There were several announcements. Council Member Allison Davis thanked Council for supporting the "No Kill" Policy Resolution at the September 11th meeting. City Administrator Shawn Cox updated Council on the FY 2018 amended budget. Mayor Susan Jaggers considered having a Town Hall meeting on September 30th at 3:00 p.m. at the Wimberley Community Center, if the date and time was available.

B. Future agenda items – None.

ADJOURNMENT

Motion to adjourn the meeting at 7:26 p.m. was made by Council Member Craig Fore. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (4-0).

RECORDED BY:

_____

Laura J. Calcote, City Secretary

APPROVED BY:

_____

Susan B. Jaggers, Mayor

DRAFT

City of Wimberley

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

SPECIAL CITY COUNCIL MEETING
WIMBERLEY CITY HALL – CITY COUNCIL CHAMBERS
221 STILLWATER, WIMBERLEY, TEXAS 78676
TUESDAY, SEPTEMBER 25, 2018 – 5:30 P.M.

MINUTES

CALL TO ORDER
Mayor Susan Jaggers called the meeting to order at 5:31 p.m.

CALL OF ROLL

Council Members Present:	Susan Jaggers	Mayor
	Craig Fore	Place Two
	Allison Davis	Place Three
	Gary Barchfeld	Place Four
	Patricia Cantu Kelly	Place Five
Council Members Absent:	Mike McCullough	Place One
City Staff Present:	Shawn Cox	City Administrator
	Laura Calcote	City Secretary

PUBLIC HEARING
Public hearing on the proposed Fiscal Year (FY) 2018-2019 Budget

A. Mayor Susan Jaggers opened the public hearing at 5:32 p.m.
B. There were two citizens comments, as follows:
   1. Barbara Hopson addressed Council regarding the proposed FY 2018-2019 Budget, and stated the City was headed for a future budget meltdown. Ms. Hopson presented budget deficit numbers and noted the General Fund balance was unknown and the Wastewater Fund would deficient by next fiscal year.
   2. William Bowman spoke regarding the major changes to the wastewater treatment plant project during FY 2018 and what that meant for FY 2019. Mr. Bowman requested Council provide a complete and comprehensive status of the end of FY 2018 fund balance, to include the cancellation of the Black Castle contract. Furthermore, Mr. Bowman projected the City's deficit would be between $300,000-$600,000 at the end FY 2019, which would be an early warning sign of a City ad valorem tax for the future.
C. Mayor Susan Jaggers closed the public hearing at 5:38 p.m.

DISCUSSION AND POSSIBLE ACTION
A. Discuss and consider possible action to approve Resolution No. 26-2018, adopting the City of Wimberley amended Fiscal Year (FY) 2017-2018 Budget.

There was discussion on verifying the revenue the City was receiving for franchise fees and permit fees. Council Member Gary Barchfeld requested City staff make sure the City is collecting the full amount. City Administrator Shawn Cox noted there was an unforeseen expenditure of $20,000 that had been added to the amended FY 2017-2018 Budget.
Motion to approve Resolution No. 26-2018, adopting the City of Wimberley amended Fiscal Year (FY) 2017-2018 Budget, 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 approve Resolution No. 27-2018, adopting the City of Wimberley Fiscal Year (FY) 2018-2019 Budget.
There was lengthy discussion among Council members regarding FY 2019 Budget projections, forecasting, roads, the Wimberley Community Center, the Blue Hole Fund, and keeping with the promise not to impose an ad valorem tax.
Motion to approve Resolution No. 27-2018, adopting the City of Wimberley Fiscal Year (FY) 2018-2019 Budget, was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. A roll call vote was taken (4-0-1):

Craig Fore	**Aye**
Allison Davis	**Aye**
Gary Barchfeld	**Aye**
Patricia Cantu Kelly	**Aye**
Mike McCullough	**Absent**

C. Discuss and consider possible action to approve the updated City of Wimberley Fee Schedule.
Motion to approve the updated City of Wimberley Fee Schedule was made by Council Member Craig Fore. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (4-0).

ADJOURNMENT
Motion to adjourn the meeting at 6:44 p.m. was made by Council Member Allison Davis. Motion was seconded by Council Member Patricia Cantu Kelly. Motion carried unanimously (4-0).

RECORDED BY:

_____
Laura J. Calcote, City Secretary

APPROVED BY:

_____
Susan B. Jaggers, Mayor

DRAFT

AGENDA ITEM:	**City Administrator's Report**
SUBMITTED BY:	Shawn Cox, City Administrator
DATE SUBMITTED:	October 1, 2018
MEETING DATE:	October 4, 2018

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

The City Administrator will provide an update to Council on the progress of the Central Wimberley Wastewater Project, including construction progress, expenditures to date, and other updates related to the project. Additionally, the City Administrator will provide an update on completed, ongoing, and future City road projects as well as Code Compliance issues.

REQUESTED ACTION

Motion ☐

Discussion ☐

Ordinance ☐

Resolution ☐

Other ☒

FINANCIAL

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

STAFF RECOMMENDATION

AGENDA ITEM:	**Food trailer/temporary structure installation at Odie's**
SUBMITTED BY:	Sandy I. Floyd
DATE SUBMITTED:	09/27/2018
MEETING DATE:	10/04/2018

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Gratton's Cajun Kitchen, Jeremy Feagin, has requested installation of his food trailer at 411 FM 2325. Recent availability at Odie's has presented Mr. Feagin with the opportunity to fill this space. Requested installation date is October 5th.

REQUESTED ACTION

Motion ☒

Discussion ☒

Ordinance ☐

Resolution ☐

Other ☐

FINANCIAL

Budgeted Item ☐

Non-budgeted Item ☐

Not Applicable ☒

Original Estimate/Budget: $

Current Estimate: $

Amount Under/Over Budget: $

STAFF RECOMMENDATION

To approve food trailer at Odie's.

City of Wimberley

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

Incorporated May 6, 2000

Temporary Structure Application Form

Office Use
Permit No. T-18-004
Date: 25 SEPTEMBER 2018
Staff Review: SIF
Council Hearing: 10-4-2018

Applicant: GRATTONS CAJUN KITCHEN
Mailing Address: 24650 SH HWY 80 **City:** Gilliett **State:** TX **Zip:** 78116
Phone: 8304771157 **Email:** mudbugs.JF@gmail.com
Property Owner: ALLISON SCHWABE
Mailing Address: 411 FM 2325 **City:** Wimberley **State:** TX **Zip:** 78676
Phone: 8304771157 **Email:** mudbugs.JF@gmail.com

Subject Property Address: 411 Fm 2325
Hays CAD Parcel ID R R153456 **Zoning:** C1
Purpose/Use of Structure: Food Trailer
Requested Installation Date: Oct 5, 2018 **Requested Removal Date:** N/A
Will the temporary structure be served by electricity? YES ☐ **NO** ☑
Will the temporary structure be served by water service? YES ☑ **NO** ☐
If "YES" to either then an inspection is required for water and/or electrical service.
☑ N/A **If service is provided through another meter attach a letter of permission.**
☐ **Provide a site plan indicating location of temporary structure in relation to other structures, parking lots, property lines etc.**
Permission from property owner is attached. YES ☑ **NO** ☐ **N/A** ☐
Has a Mobile Food Establishment application been submitted? YES ☑ **NO** ☐ **N/A** ☐

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

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

Applicant: _____ **Date:** 9/25/18

Updated: November 2017

AGENDA ITEM:	**Special Event – Family Halloween Night**
SUBMITTED BY:	Sandy I. Floyd
DATE SUBMITTED:	September 28, 2018
MEETING DATE:	October 4, 2018

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Request for approval of plans for a Family Halloween night scheduled for Wednesday, October 31st.

The event proposes for shop owner's along Old Kyle Road to host a portion of the event which will run from 4:00 p.m. to 8:00 p.m. and include activities such as pumpkin painting, music, dunking booth, bounce house, and movie screen for kids. All of the activities will be set up on private property and the shop owner's are not requesting any City services.

REQUESTED ACTION

Motion	☒
Discussion	☒
Ordinance	☐
Resolution	☐
Other	☐

FINANCIAL

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

STAFF RECOMMENDATION

AGENDA ITEM: Mow Town – Tree Trimming

SUBMITTED BY: Shawn Cox, City Administrator

DATE SUBMITTED: October 1, 2018

MEETING DATE: October 4, 2018

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

The Public Works Department requested quotes to provide tree trimming services on the following roads:

- CR 1492 from RR-12 to the River
- Flite Acres Road from Little Ranches to the end and Little Arkansas, from Flight Acres to the bridge

The Public works Department only received quotes back from Mow Town Lawn Service. The total cost for tree trimming is $9,350.00 ($5,700 for CR 1492 + $3,650 for flight Acres). All trees over the roads will be trimmed to a height of 16 feet, and 3 feet from the edge of the road. Pricing also includes spraying and sealing all cuts made to Oak Trees.

REQUESTED ACTION

Motion ☒

Discussion ☒

Ordinance ☐

Resolution ☐

Other ☐

FINANCIAL

Budgeted Item ☐

Non-budgeted Item ☐

Not Applicable ☒

Original Estimate/Budget: $

Current Estimate: $

Amount Under/Over Budget: $

STAFF RECOMMENDATION

The City Administrator recommends acceptance of the tree trimming bids from Mow Town Lawn Service.

MOW TOWN LAWN SERVICE
PO Box 2187
Wimberley, TX 78676 US
(512) 955-2589
mowtownlawnservice@yahoo.com
www.mowtownlawn.com

Estimate

ADDRESS
City of Wimberley PO Box 2127 Wimberley, Texas 78676

ESTIMATE #	DATE
1017	08/22/2018

Please detach top portion and return with your payment.

ACTIVITY	QTY	RATE	AMOUNT
Tree Trimming W/O 18044 Trim trees and dispose of debris both sides CR1492 to Blanco River. The bulk of the work is from RR-12 to Chaparral. All trees to be cut to height of 16' and 3' from the edge of the road. Spray and seal all Oak cuts.	1	5,700.00	5,700.00

TOTAL **$5,700.00**

Accepted By

Accepted Date

MOW TOWN LAWN SERVICE
PO Box 2187
Wimberley, TX 78676 US
(512) 955-2589
mowtownlawnservice@yahoo.com
www.mowtownlawn.com

Estimate

ADDRESS
City of Wimberley
PO Box 2127
Wimberley, Texas 78676

ESTIMATE #	DATE
1018	08/22/2018

Please detach top portion and return with your payment.

ACTIVITY	QTY	RATE	AMOUNT
Tree Trimming W/O 18044 Trim trees and dispose of debris both sides of Little Arkansas from Flite Acres to the bridge. All trees to be cut to a height of 16' and 3' from the edge of the road. Spray and seal all Oak cuts.	1	3,650.00	3,650.00
	TOTAL		**$3,650.00**

Accepted By

Accepted Date

AGENDA ITEM: Capital Excavation CMR #1

SUBMITTED BY: Shawn Cox, City Administrator

DATE SUBMITTED: October 1, 2018

MEETING DATE: October 4, 2018

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

On January 18, 2018, Council awarded the Sewer Collection System Contract to Capital Excavation, and approved Change Order No. 1. The total contract amount (including the Change Order No. 1) is $3,616,230.00.

Under Section 13.03 Tests and Inspections, part B. of the Contract with Capital Excavation, the City is responsible for the provision of "materials" testing. On July 10, 2018, Council approved Contractors Modification Request #2 which approved materials testing to be completed by Alpha Testing, as a sub-contractor to Capital Excavation. A requirement of the TWDB CWSRF funding requires the project to follow the Environmental Protection Agency's (EPA) Disadvantaged Business Enterprise (DBE) Program.

At the request of the TWDB to have 40% of the testing conducted by a DBE, Capital Excavation will utilize Terradyne Engineering AUS, Inc.

Change Order #2 with Alpha Testing was for $19,842.00. The utilization of Terradyne to meet DBE requirements will cost an additional $2,042.00 for a total cost of $21,884.00.

Based on a reduction in quantities, the new contract total is $3,566,402.12. This includes the totals for the two (2) Contractors Modification Requests (CMR) being considered by Council at their October 4, 2018 meeting.

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

The City Administrator recommends approval of Capital Excavation's requested amendment to CMR #1.

CONTRACTOR'S MODIFICATION REQUEST

PROJECT NOS.

OWNER:	**City of Wimberley**
PROJECT	**Wastewater Collection System**
CONTRACTOR:	**Capital Excavation**
ENGINEER:	**Alan Plummer Associates, Inc.**
CMR NO.:	**CMR-01** DESCRIPTION: **Testing**

NOTIFICATION BY CONTRACTOR:

We are requesting making the change to the Contract described in the attached materials and request that you take the following action:

- ☐ Notify us that you concur that this change does not require a change in contract time or amount. A Field Order will be issued.
- ☐ Issue a Change Order for performing the described change. Change in Contract amount and time are indicated in the attached detailed cost breakdown and revised schedule.

  The proposed change in cost is $xx.
  The proposed change in time is xx day(s).
- ☒ Issue a change order for the described change with payment at the unit price bid.**(Per attached rate sheet)**
- ☐ Authorize the Contractor to proceed with the change under the time and materials provision of the Contract.

REQUESTED BY:	Reed Hoysradt	9/19/2018
	TYPED NAME	DATE

RESPONSE FROM ENGINEER:

We respond to your request as follows:

- ☐ We concur that this is a no cost or time change. See attached Field Order.
- ☐ Your proposal is recommended to the Owner for incorporation into a Change Order.
- ☐ Proceed with the unit price bid for incorporation into a Change Order.
- ☐ Proceed with the change under the time and materials provision of the Contract.

RESPONSE BY:	
TYPED NAME	DATE

ACTION TAKEN:

☐ Proposed contract modification rejected. Contractor notified not to proceed.	
☐ Field Order Issued	FO-
☐ Change Order Issued	CO-
RESPONSE BY:	
TYPED NAME	DATE

DESCRIPTION OF CHANGE TO THE CONTRACT
CRM-01

See attached Unit Price Proposal from Alpha Testing

CMT COST ESTIMATE

Revised: Wimberley Wastewater Collection

Cost Estimate No: 65272

ALPHA TESTING

WHERE IT ALL BEGINS

Environmental *Geotechnical* *Construction Materials*

ALPHA TESTING
WHERE IT ALL BEGINS

Geotechnical
Construction Materials
Environmental
TBPE Firm No. 813

4740 Perrin Creek, Suite 480 San Antonio, TX 78217

Tel: 210.249.2100
Fax:210.249.2101
www.alphatesting.com

May 21, 2018

CAPITAL EXCAVATION - BUDA
2967 Business Park Drive
Buda, Tx 78610

Attention: Joe Chesney
jchesney@capitalexcavation.com

Construction Materials Testing
Services and Fees

REVISED: WIMBERLEY WASTEWATER COLLECTION
Wimberley, Tx
Cost Estimate No: 65272-17-36SA

We are pleased to submit the following cost estimate for performing Construction Materials Testing on the project referenced above.

Thank you for the opportunity to submit this estimate. If this cost estimate is satisfactory, would you please sign the white copy of the enclosed cost estimate acceptance sheet and return it to us. We will consider receipt of a signed copy of this cost estimate as our official notice to proceed.

We look forward to working with you on this project. If there are any questions, please contact us at 210.249.2100. We are available to discuss any questions at your convenience.

Respectfully submitted,

ALPHA TESTING, INC.

Courtney Ball
Business Development Manager

John Moreland
Manager of CMT Estimating

Attachments: Acceptance Sheet
General Terms and Conditions

HISTORY

Alpha Testing, Inc. (Alpha), a Texas corporation established in 1983, provides full-service geotechnical engineering, construction materials testing and inspection, and environmental services. Our goal since 1983 has been to be recognized as "First in Service" by our clients. Alpha is known for responsiveness, accurate and reliable data collection, and consistent recommendations - all provided as agreed. Let the success of your next project start with us!

Alpha is a registered Texas engineering firm (# 813) and a Texas geoscience firm (#50341), meets the requirements of ASTM E-329, is AASHTO R-18 accredited, and has engineers licensed in multiple states. Alpha currently employs over 275 people.

Alpha recognizes that our client base faces challenges at every turn, either meeting a deadline, meeting a budget, or overcoming a field or design challenge. It is our internal challenge to make your challenges ours. Tell us what you need, we will take ownership, ask the needed questions, then be responsive in execution.

BUSINESS LOCATIONS

1. Dallas Office – Corporate
2209 Wisconsin St., Suite 100, Dallas, Texas 75229
(V) 972-620-8911 (F) 972-620-1302
Brian Powell, PE, President: bpowell@alphatesting.com
Ken Combs, Vice President: kcombs@alphatesting.com

2. Fort Worth Office
5058 Brush Creek Rd. Fort Worth, TX 76119
(V) 817-496-5600 (F) 817-496-5608
Tim Begole, CET, CMT Manager: tbegole@alphatesting.com
Brian Hoyt, PE, Geotechnical Manager: bhoyt@alphatesting.com

3. San Antonio Office
4740 Perrin Creek, Suite 480 San Antonio, TX 78217
(V) 210-249-2100 (F) 210-249-2101
Adam Heiman, PE, Geotechnical Dept. Manager: aheiman@alphatesting.com
Philip Johnson, PE, CMT Manager: pjohnson@alphatesting.com

4. Houston Office
6513 W. Little York Road, Houston, TX 77040
(V) 713-360-0460 (F) 713-360-0481
Lee J. Mitchell, PE, Senior Geotechnical Engineer: lmitchell@alphatesting.com

Quality Control

All testing equipment in Alpha's laboratories is calibrated on an annual basis using traceable standards (NIST or NSTL). Calibrations are confirmed by CCRL and AASHTO on a bi-annual basis during third-party inspections. Along with calibration of equipment, Alpha also maintains an internal QA/QC program to assure consistent and reliable test results. This program pertains to methodologies for performing tests that have been developed and expanded through years of experience.

PROJECT INFORMATION

It is our understanding that a new sewer line and force main is to be placed in Wimberley. In this cost estimate, we are providing our estimate of the testing anticipated based on our understanding of the project information provided in the contract documents: civil plans dated: 3/6/17; Quantities were provided. Along with the applicable city standards for the City of Wimberley.

UTILITIES

Based on our understanding of the information provided, field density testing is required on the backfill material placed. We have estimated that approximately 7,025 linear feet of 6" gravity line would be excavated and installed. In addition, about 3,000 linear feet of 8" gravity lines, and an estimated 2,800 linear feet of force main would be placed. We have estimated that our engineering technician could be required on site for approximately 326 hours to perform approximately 1,193 field density tests. In addition the technician could obtain approximately 5 soil samples for laboratory proctor analysis.

HOT MIX ASPHALT CONCRETE TESTING

It is our understanding that testing of the hot mix asphalt concrete materials and installation observation is required. Approximately 64,125 square feet of area would be utilized for asphalt concrete pavement. We have estimated that our engineering technician could be required on-site for about 31 hours.

SCOPE OF SERVICES

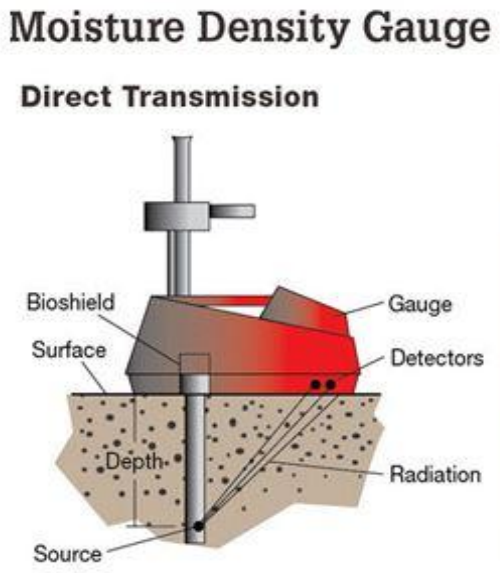
UTILITIES

Trench Back-fill: 1 density test for every 250 linear feet each 6 inch lift.

Trench backfill for utilities should be properly placed and compacted in accordance with requirements of local City standards

HOT MIX ASPHALT CONCRETE TESTING

Paving: 1 density test for every 500 tons each type.



ESTIMATED TESTING SCHEDULE

The following is our estimate of the number, type and cost of anticipated construction materials testing for the project referenced previously. This estimate of the expected testing was developed based on project plans and information as provided by the client. It should be recognized that variations in construction schedules, weather, amount of re-testing, additional testing requested by our client, etc., could result in differences between the actual and estimated testing costs. Although efforts will be made to maintain the testing costs within the estimated amount, charges will be computed based on actual services rendered.

Testing services proposed herein do not include full-time personnel on site nor any form of project supervision. It is our understanding that testing will be scheduled by the client or his designated representative, and ALPHA TESTING, INC. does not assume the responsibility for assuring all required tests are performed. If desired, ALPHA could monitor testing frequencies and locations during the progress of the work to assure the required testing is performed, at an additional cost.

I. Utilities (City R.O.W.)

Description	Est. Qty	Unit Rate	Est. Total
Density Testing /Hour	**326.00**	**$36.00**	**$11,736.00**
Nuclear Density Gauge/Trip	**37.00**	**$50.00**	**$1,850.00**
Proctor #/Each	**5.00**	**$300.00**	**$1,500.00**
Atterberg Limit Test/Each	**5.00**	**$75.00**	**$375.00**
-200 Sieve/Each	**5.00**	**$75.00**	**$375.00**
Compressive Strength of Stabilized Sand/Each	**5.00**	**$112.00**	**$560.00**
Material Pickup/Hour	**8.00**	**$36.00**	**$288.00**
Vehicle Trip Charge/Trip	**38.00**	**$35.00**	**$1,330.00**
Engineering Report Review/Hour	**7.00**	**$100.00**	**$700.00**
Subtotal			$18,714.00

II. Hot Mix Asphalt Concrete (City R.O.W.)

Description	Est. Qty	Unit Rate	Est. Total
HMAC Monitoring /Hour	**28.00**	**$75.00**	**$2,100.00**
Nuclear Density Gauge/Trip	**7.00**	**$60.00**	**$420.00**
Vehicle Trip Charge/Trip	**7.00**	**$50.00**	**$350.00**
Engineering Report Review/Hour	**3.00**	**$100.00**	**$300.00**
Subtotal			$3,170.00

Grand Total: **$21,884.00**

ADDITIVE OPTION

II. Optional-Utilities (City R.O.W.)

Description	Est. Qty	Unit Rate	Est. Total
Field Gradations/Hour	25.00	$36.00	$900.00
PH Test/Each	4.00	$25.00	$100.00
Los Angeles Abrasion/Each	2.00	$400.00	$800.00
Sodium Sulfate Soundness (3 cycles)/Each	2.00	$450.00	$900.00
Subtotal			$2,700.00

CMT

ACCEPTANCE FORM

Date:	May 21, 2018	Alpha Cost Estimate No:	65272-17-36SA
Project Name:	REVISED: WIMBERLEY WASTEWATER COLLECTION	CMT Estimate	$21,884.00
Project City:	Wimberley, Tx		

*** Highlighted Areas Must Be Filled Out ***

CLIENT:_____ ATTN:_____

ADDRESS:_____ EMAIL:_____

CITY/STATE/ZIP:_____ PHONE/FAX:_____

OWNER OF PROPERTY:_____

ADDRESS:_____ CITY/STATE/ZIP:_____

PROJECT LEGAL DESCRIPTION:_____

PROJECT COUNTY:_____

The undersigned hereby accepts all the Terms and Conditions set forth in this cost estimate and warrants that he/she has full authority to bind the Client. Payment Terms: Net Within 30 days in Dallas, Texas. No reports will be issued until we have a signed contract, purchase order or Letter of Authorization to proceed in our office. Signed contract, purchase order or Letter of Authorization to proceed must be received within 3 days of commencement of services or work stoppage will commence on the 4th day and continue until signed authorization is received in our office.

For projects with new clients under $1,000.00, written authorization must be received prior to the start of work and payments must be received before any reports are issued. Service for welding certifications and ferroscan work must be paid prior to work or upon arrival to the site to perform the work.

Cost Estimate ACCEPTED BY:

_____

Signature Title Date

Accounts Payable Contact:

*Name:*_____*Phone:*_____*Email:*_____

Please indicate in the space provided authorized field personnel, along with pager or mobile numbers, who may sign our Field Technicians time ticket upon completion of our daily work:_____

If no names are provided it will be understood no authorized field representative signature is required.

REPORTS WILL BE PROVIDED TO THE CLIENT VIA THE INTERNET

Please provide a personal password for this project (up to 15 characters): _____ Please provide a valid email address: _____. You will be contacted by email and given your Project ID number to use for login access to the Alpha website, www.alphatesting.com, to retrieve your reports. You can directly print any individual report or all reports within a range of dates you specify.

REPORT DISTRIBUTION

Firm	Contact Name	Email

REMARKS

Services and fees not listed above will be quoted on request.

Invoices will be submitted monthly for services performed. Payment will be due in Dallas within thirty (30) days of receipt of invoice. Interest will be added to delinquent accounts at a rate of 1.5 percent for each month of delinquency.

Payment of the invoice is not contingent on Client's agreement or acceptance of ALPHA's test result or findings. If CLIENT objects to any portion of an invoice or report, it shall notify ALPHA in writing within ten (10) days from the date of actual receipt of the invoice of the amount and nature of the dispute, and shall timely pay undisputed portions of the invoice.

The above unit prices are applicable for one year from the date of this letter and are subject to change without notice thereafter.

Next day results for Standard Proctor Tests will be charged at 1.5 times the standard unit prices.

The prices above include electronic copies of the report distributed in accordance with client's instructions. Additional physical copies will be billed at a rate of $.25 per sheet.

All field services are charged portal-to-portal, minimum charge of 3 hours per trip applies to all field work.

All reports are available on line.
Dispatch schedule hours are Monday-Friday from 7:00 am to 5:00 pm and Saturday from 7:00 am to 12:00 pm. All schedule calls made after 5:00 pm, Monday-Friday and after 12:00 pm on Saturday will be recorded on voice mail and addressed 7:00 am the next working day upon arrival of our dispatcher. Please make sure to schedule work in a timely manner (a minimum of 24 hours in advance)if you want ALPHA to guarantee a technician on site at the desired time.

Cancellations will be invoiced for portal to portal times as well as time spent on site awaiting determination of cancellation. When field density testing is the scheduled work, the client will also be invoiced for a minimum half day gauge charge.

Services performed outside a 40 mile radius of this area will be charged mileage of $.55 a mile.

Overtime rates will not be applicable for services performed in excess of 8 hours per day and on Saturdays and Sundays. Services performed on holidays will be billed at 2.0 times the regular hourly rate.
Waiver of Subrogation - If a Waiver of Subrogation is required by your company, there will be a fee applied to your first invoice. The fee will be a minimum of $300.00 charge or 1% of contract price plus $50.00, which ever is greater.

ALPHA TESTING, INC. provides no warranty, either expressed or implied, that the testing provided under this contract satisfies all requirements of the plans and specifications for the project, applicable City specifications or other governing bodies that may have jurisdiction over the project.

No reports will be issued until we have a signed contract, purchase order or Letter of Authorization to proceed in our office. Signed contract, purchase order or Letter of Authorization to proceed must be received within 3 days of commencement of services or work stoppage will commence on the 4th day and continue until signed authorization is received in our office.

For projects with new clients under $1,000.00 written authorization must be received prior to the start of work and payments must be received before any reports are issued. Service for welding certifications and ferroscan work must be paid prior to work or upon arrival to site to perform the work.

PLEASE NOTE: In keeping OSHA Safety regulation, ALPHA TESTING, INC. employees will not enter a trench to test that is not in compliance with current OSHA regulations. Delays or cancellations caused by waiting for trench(s) to be brought into compliance will be invoiced on an hourly basis.

"EXHIBIT A"

Terms and Conditions

Section 1: The Agreement

The Agreement between the parties, which shall describe and govern CLIENT's engagement of ALPHA TESTING, INC. ("ALPHA") to provide services ("Services") in connection with the project ("Project") identified in the cost estimate ("cost estimate"), consists of the cost estimate, these General Terms and Conditions ("Terms"), ALPHA's fee schedule, and any exhibits or attachments referenced in any of these documents. Together these elements constitute the entire agreement between the parties, superseding any and all prior negotiations, correspondence, or agreements, either written or oral, with respect to the subject matter of this engagement. This Agreement may only be modified by mutual signed, written agreement. In the event of a conflict between these Terms and the cost estimate or exhibits, the following order of precedence shall prevail: (i) These Terms, (ii) the cost estimate, and (iii) any exhibits or attachments referenced in the foregoing.

Section 2: Standard of Care

The Services shall be performed in a manner consistent with the level of care and skill ordinarily exercised by members of ALPHA's profession currently practicing under similar conditions and in the same locality as the Project (the "Limited Warranty"). Interpretations and recommendations by ALPHA will be based solely on information discovered by, or made available to, ALPHA during the course of the engagement. In connection with such information, CLIENT recognizes that subsurface conditions across the site may vary from those observed at test locations, including but not limited to locations where density tests and concrete tests, borings, surveys, or explorations are made, and that site conditions may change over time. ALPHA shall not be responsible for the use or interpretation of such information by non-parties to this Agreement nor shall ALPHA be responsible for changed site conditions or for subsurface conditions at locations where testing, borings, surveys, or explorations are not made.

If Client provides ALPHA's report to any third Party, Client shall make such third party aware of this limitation of liability, and shall defend, indemnify, and hold ALPHA harmless from any action against ALPHA by such third party.

EXCEPT FOR THE LIMITED WARRANTY, ALPHA MAKES NO OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, REGARDING THE SERVICES, AND EXPRESSLY DISCLAIMS ANY OTHER WARRANTIES; INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF GOOD AND WORKMANLIKE PERFORMANCE AND OF FITNESS FOR A PARTICULAR PURPOSE.

Section 3: Site Access and Conditions

CLIENT shall grant to, or obtain for, ALPHA unimpeded access to the Project site for all equipment and personnel necessary for the performance of the Services, and access necessary for ALPHA's personnel to photograph the Project site. As required to effectuate such access, CLIENT shall notify all owners, lessees, contractors, subcontractors, and other possessors of the Project site that ALPHA must be allowed free access to the site. CLIENT understands that, in the normal course of performing the Services, some damage, including but not limited to injury to vegetation, rutting, and cracking of concrete, may occur as a result of ALPHA's performance of the Services, and further agrees that ALPHA is not responsible for the correction of any such damage caused by ALPHA unless so specified in the cost estimate.

CLIENT is responsible for the accuracy of locations for all subterranean structures and utilities, and CLIENT waives any claim against ALPHA, and shall defend (with counsel acceptable to ALPHA), indemnify, and hold ALPHA harmless from any claim or liability for injury, damages, or loss by any party, including costs of defense and attorneys' fees, arising from damage caused as a result of subterranean structures and utilities not being properly identified or accurately located by CLIENT. In addition, and without limiting the foregoing, CLIENT shall compensate ALPHA for any consequential damages resulting from any such claim, including without limitation time spent or expenses incurred by ALPHA in defense of any such claim, with such compensation to be based upon ALPHA's prevailing fee schedule and expense reimbursement policy.

Section 4: CLIENT's Responsibility and Project Understanding
CLIENT shall make available to ALPHA all information in its possession or subject to its control regarding existing and proposed conditions at the site. Such information shall include, but not be limited to, plot plans, topographic surveys, hydrographic data, and previous soil data, including borings, field and laboratory tests, and written reports. CLIENT shall immediately, but in no event later than twenty-four (24) hours after its receipt, transmit to ALPHA any new information concerning site conditions that becomes available, and any change in plans or specifications concerning the Project to the extent such information may affect ALPHA's performance of the Services. CLIENT shall, upon 24 hours oral or written notice, provide a representative at the job site to supervise and coordinate the Services.

Additional responsibilities of the CLIENT include: review of ALPHA's work for overall coordination with the work of other consultants, including any architects and engineers; with reasonable promptness, but in no event later than __ hours, provide all available information regarding requirements for ALPHA's work; upon request by ALPHA, the CLIENT shall furnish the services of other reasonably required consultants, including surveys, testing laboratory, etc.; prepare and assemble specifications for the General Conditions and Supplementary Conditions and all architectural components of the project, and coordinate assembly of ALPHA's specification sections into a proper format; notify ALPHA immediately if the Client, any architect, or any engineer becomes aware of any fault or claimed deficiency with ALPHA's work, or nonconformance with the Contract Documents and provide ALPHA a reasonable opportunity to cure any such deficiency or nonconformance; confer with ALPHA before issuing interpretations or

clarifications of the documents prepared by ALPHA; forward to ALPHA for review and recommendation all construction phase submittals that pertain to ALPHA's work; and advise ALPHA of the identity and scope of services of other consultants participating in the project.

ALPHA shall not be liable for any inaccurate information furnished by CLIENT, and CLIENT shall defend (with counsel acceptable to ALPHA) indemnify and hold ALPHA harmless against any claims, demands or liability, including costs of defense and attorneys' fees, arising out of, related to, or contributed to by such inaccurate information. CLIENT waives any claim it might have against ALPHA for damages arising out its failure to timely provide accurate information or its failure to timely provide new, changed, or additional information, as set forth in the preceding paragraph, and further agrees to indemnify and hold harmless ALPHA from any claim or liability resulting from CLIENT's failure to timely provide such new, changed, or additional information.

Section 5: Project Change
In the event CLIENT, the Project owner, Architect, Structural/Civil Engineer or other party makes any changes in the plans and specifications, CLIENT agrees to defend and hold ALPHA harmless from any liability arising out of such changes, and CLIENT assumes full responsibility for any liabilities arising out of such changes unless CLIENT has given ALPHA prior written notice of such changes and has received from ALPHA written consent for such changes.

Section 6. Confidentiality

All data, forms, software, or any other materials developed by ALPHA pursuant to the performance of Services under this Agreement, or supplied to or obtained by ALPHA from CLIENT, or generated by ALPHA or its subcontractors is confidential (the "Confidential Material") and will be afforded Confidential Treatment by ALPHA, its employees, agents, affiliates, and subcontractors. Proprietary concepts and systems of ALPHA, and ideas developed by ALPHA during the performance of the Services. shall remain the sole property of ALPHA ("Alpha Intellectual Property"). Confidential Treatment includes the following: (i) The Confidential Material will be available only to employees of ALPHA; and (ii) Confidential Material will not be disclosed to any third party without the prior authorization of CLIENT. Upon completion of the Services or other termination of this Agreement, any Confidential Material retained by ALPHA not previously provided to third parties pursuant to Client authorization shall be retained by ALPHA for a period of at least 60 days, during which time period, such Confidential Material will be returned to CLIENT upon request by CLIENT.

After this time period, ALPHA shall have the right, but not the obligation, to destroy such Confidential Material, thus terminating its confidentiality obligations. If Confidential Material is retained by ALPHA past such time period, the obligations stated in this Section 5 shall survive until the earliest of the following occur: (i) Confidential Material has become available to the general public through no fault of ALPHA; or (ii) Confidential Material is received by ALPHA from others who are in lawful possession of such and who by such disclosure are not breaching any obligation to CLIENT.

Notwithstanding the foregoing, any confidential information supplied by ALPHA to CLIENT, as well as any ALPHA Intellectual Property (collectively, "ALPHA Confidential Information"), embody proprietary technology and valuable trade secrets of ALPHA, which are vital to the business of ALPHA, and whose value depends upon them not being generally known. CLIENT shall hold the ALPHA Confidential Information in strict confidence and take all necessary steps to ensure that access to any portion of the ALPHA Confidential Information is not provided to any person or entity other than CLIENT without the express written permission of ALPHA. CLIENT expressly agrees that if the ALPHA Confidential Information is improperly disclosed ALPHA will be irreparably damaged. In such event, ALPHA shall be entitled, without bond, other security, or proof of damages, to appropriate equitable remedies, including injunctive relief, with respect any breach(es) of this Agreement, in addition to any other remedies available at law or in equity.

In addition, CLIENT's officers, directors, employees and affiliates will protect the confidentiality of the ALPHA Confidential Information with the same degree of care as CLIENT affords its own confidential information (but in no event less than the degree of care that would be taken by a reasonable person), and shall not disclose such information to any third party; provided, however, that the foregoing shall not apply to information that (a) is now or hereafter becomes publicly known due to no fault of CLIENT or (b) is disclosed to CLIENT by a third party without any breach of an obligation of confidentiality.

Section 7. Sample Disposal

Samples of soil, rock, water, waste or other materials contaminated by hazardous substances, including asbestos, obtained from the project site are and remain the property of the CLIENT. ALPHA shall retain such samples for no longer than thirty (30) calendar days after the issuance of any document that includes the data obtained from them, unless other arrangements are mutually agreed upon in writing. It is CLIENT's responsibility to select and arrange for lawful disposal procedures which encompass removing the contaminated samples from ALPHA's custody and transporting them to a suitable disposal site. Accordingly, unless CLIENT indicates otherwise within the thirty (30) day period referenced above, CLIENT hereby instructs ALPHA to make arrangements, as CLIENT's agentand at CLIENT'S cost, for proper transportation and disposal of contaminated samples with appropriate licensed parties. Due to the risks which ALPHA may be exposed to during transportation and disposal of contaminated samples, CLIENT waives any claim against ALPHA, and shall defend, indemnify and hold ALPHA harmless from any

claim or liability for injury or loss, including costs of defense and attorneys' fees, arising from ALPHA's service as CLIENT's agent in arranging for proper transportation and disposal of contaminated samples. There are extra costs involved in this disposal by ALPHA of samples contaminated with highly toxic and/or hazardous substances (i.e. PCBs, Dioxins, Cyanide, Pesticides, etc.). In this case, the CLIENT shall pre-pay all transportation and disposal costs or ALPHA will return the samples to the project site for proper disposal by the Client.

Section 8. Construction Monitoring

ALPHA shall have no authority to reject or terminate the work of any agent or contractor of CLIENT. No action, statements, or communications of ALPHA, or ALPHA's site representative, can be construed as modifying any agreement between CLIENT and others. ALPHA's presence on the Project site in no way guarantees the completion or quality of the performance of the work of any party retained by CLIENT to provide construction related services. Neither the professional activities of ALPHA, nor the presence of ALPHA or its employees, representatives, or subcontractors on the Project Site, shall be construed to impose upon ALPHA any responsibility for methods or quality of work performance, sequencing of construction, or safety conditions at the Project site. CLIENT acknowledges that CLIENT or its general contractor is solely responsible for job site safety, and warrants and agrees that such responsibility shall be made evident in the Project owner's agreement with the general contractor. CLIENT shall make ALPHA an additional insured under any general contractor's general liability insurance policy.

In the event ALPHA expressly assumes any health or safety responsibilities for hazardous materials or other items as further set forth in this Agreement, the acceptance of such responsibility shall not be deemed acceptance of responsibility for any other health or safety requirements, including but not limited to those responsibilities or requirements relating to excavation, trenching, drilling or back filling.

Section 9. Ownership of Documents

All reports, boring logs, field data, field notes, laboratory test data, calculations, estimates and other documents prepared by ALPHA in connection with this engagement, shall remain the property of ALPHA. CLIENT agrees that all reports and other material(s) furnished by ALPHA to CLIENT, or to CLIENT's agents, for which CLIENT has not paid will be returned to ALPHA upon demand and will not be used by CLIENT or others for any purpose whatsoever. Unless otherwise required by law, ALPHA will retain all pertinent records relating to the Services performed for a period not exceeding five years following submission of any report, as referred to herein, during which period the records will be made available to CLIENT at all reasonable times. After such five year period, ALPHA shall have the right, but not the obligation, to, in its sole discretion, destroy any or all of such documents.

Section 10. Termination

This Agreement may be terminated without cause by either party upon ten (10) days' written notice by the terminating party. This Agreement may also be terminated for cause by the non-defaulting party if, after seven (7) days after written notice of a default in the performance of any material provision of this Agreement, the defaulting party fails to cure or correct such default. In the event of termination, ALPHA will be paid for services performed through the date of termination, plus reasonable termination expenses, including the cost of completing analysis, records, and reports necessary to document job status at the time of termination.

Section 11. Risk Allocation and Limitation of Liability
The parties acknowledge that a variety of risks potentially affect ALPHA by virtue of entering into an agreement to perform the Services. The parties further acknowledge and agree that there is no disparity in bargaining power between the parties. **IN ORDER FOR CLIENT TO OBTAIN THE BENEFIT OF A LOWER FEE THAN WOULD OTHERWISE BE AVAILABLE, CLIENT AGREES TO LIMIT ALPHA'S LIABILITY TO CLIENT, AND TO ALL OTHER PARTIES, FOR CLAIMS ARISING OUT OF ALPHA'S PERFORMANCE AND THE SERVICES. THE TOTAL AGGREGATE LIABILITY OF ALPHA SHALL NOT EXCEED THE TOTAL FEE FOR THE SERVICES RENDERED ON THE PROJECT, OR $20,000, WHICHEVER IS LOWER, FOR ANY LIABILITIES, INCLUDING BUT NOT LIMITED TO NEGLIGENT PROFESSIONAL ACTS OR ERRORS OR OMISSIONS, AND CLIENT AGREES TO INDEMNIFY ALPHA FOR ALL LIABILITIES IN EXCESS OF THE MONETARY LIMITS ESTABLISHED**.
Client agrees that in no instance shall ALPHA be responsible, in total or in part, for the errors or omissions of any other professional, contractor, subcontractor or any other third party. Client also agrees that ALPHA shall not be responsible for the means, methods, procedures, performance, quality or safety of the construction contractors or subcontractors, or for their errors or omissions.

Section 12. Discovery of Unanticipated Hazardous Materials
CLIENT warrants that it has made reasonable efforts to inform ALPHA of known or suspected hazardous materials on or near the Project site. The parties acknowledge that hazardous materials may exist at a site even if there is no reason to believe they are present. ALPHA and CLIENT agree that the discovery of such unanticipated hazardous materials constitutes a changed condition that shall require either a re-negotiation of the scope of ALPHA's Services or termination of this Agreement without cause. CLIENT recognizes that the discovery of hazardous materials may necessitate immediate protective measures to safeguard the public health and safety and shall compensate ALPHA for measures that, in ALPHA's professional opinion, are necessary and justified to preserve and protect the health and safety of site personnel and the public. CLIENT also shall compensate ALPHA for any equipment decontamination or other costs incident to the discovery of unanticipated hazardous materials.

ALPHA shall notify CLIENT as soon as practicable should unexpected hazardous materials be encountered at the site that pose a threat to human health, safety and the environment. CLIENT agrees that, in the event of the discovery of hazardous materials at the site, it shall report such discovery to the proper authorities as required by Federal, State, and local regulations. CLIENT agrees to make the required report at the recommendation of ALPHA, or, if unable to do so, authorizes ALPHA to make such report. CLIENT shall also inform the Project site owner in the event that hazardous materials are encountered at the site.

Notwithstanding any other provision of the agreement, CLIENT waives any claim against ALPHA, and to the maximum extent permitted by law, agrees to defend, indemnify, and save ALPHA harmless from any claim, liability and/or defense costs for injury or loss arising from the presence of hazardous materials on the project site, including any costs created by delay of the project and any costs associated with possible reduction of the property's value. CLIENT is responsible for ultimate disposal of any samples secured by ALPHA which are found to be contaminated, at CLIENT's cost.

Section 13. Ground Water Contamination
CLIENT acknowledges that it is impossible for ALPHA to know the exact composition of a site's subsurface, even after conducting a comprehensive exploratory program. As a result, there is a risk that drilling and sampling may result in contamination of certain subsurface areas. Although ALPHA will take reasonable precautions to avoid such an occurrence, CLIENT waives any claim against ALPHA for, and shall defend, indemnify and hold ALPHA harmless from, any claim or liability for injury or loss which may arise as a result of subsurface contamination caused by drilling, sampling, testing or monitoring well installation. CLIENT shall also adequately compensate ALPHA for any time spent and expenses incurred in defense of any such claim.

Section 14. Insurance
No insurance carried by ALPHA shall be deemed to limit in any way the responsibility of any contractor or subcontractor for damages resulting from their services in connection with the Project. CLIENT shall include, or cause to be included, in the Project's construction contract such requirements for insurance coverage and performance bonds to be secured and maintained by the Project contractor as CLIENT deems adequate to insure and indemnify CLIENT and ALPHA against claims for damages, and to insure compliance of work performance and materials with Project requirements.

Section 15. Indemnity
ALPHA and the Client shall each indemnify the other against claims for bodily injury or damage to tangible property resulting from: (a) negligent error, omission or act of the indemnitor or the indemnitor's officers, servants, employees or subconsultants in the performance of the work hereunder; or (b) negligent failure of the indemnitor or the indemnitor's officers, servants, employees or subconsultants to comply with laws or regulations; or (c) negligent failure of the indemnitor to perform under any contract with any other party, its, officers, servants, employees, subconsultants or clients. This indemnity obligation shall survive performance of the services hereunder.

NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, ALPHA WILL NOT INDEMNIFY CLIENT FOR ITS OWN NEGLIGENCE.

Section 16. Invoices and Payment Terms
In consideration for the performance of the Services, ALPHA shall be paid an amount and according to terms set forth in the cost estimate ("Project Cost"); however, if payment terms are not listed in the cost estimate, payment for Services shall be payable within thirty (30) days of ALPHA's invoice date (the "Payment Due Date"). All payments must be paid by the Payment Due Date, and shall not be contingent upon CLIENT's receipt of separate payment, financing or closing on the project property, or other conditions whatsoever. If CLIENT objects to any portion of an invoice, it shall notify ALPHA in writing within ten (10) days from the date of actual receipt of the invoice of the amount and nature of the dispute, and shall timely pay undisputed portions of the invoice. Past due invoices and any sums improperly withheld by CLIENT shall accrue interest thereon at the rate of one percent (1%) per month, or the maximum rate allowed by law, whichever is lower.

CLIENT agrees to pay all costs and expenses, including reasonable attorney's fees and costs, incurred by ALPHA should collection proceedings be necessary to collect on Client's overdue account. Unless the cost estimate specifies the Project Cost as not-to-exceed or lump sum, CLIENT agrees that cost estimates and schedules are based upon ALPHA's best judgment of Site conditions and other requirements at the time of cost estimate and should be used by CLIENT for planning purposes only. ALPHA will endeavor to perform the Services within the estimates but will notify CLIENT if estimates are likely to be exceeded. In the event of changed site conditions or other conditions requiring additional time, CLIENT agrees to pay the reasonable and necessary increases resulting from such additional time.

Unless otherwise specified in the cost estimate, CLIENT will be solely responsible for all applicable federal, state or local duty, import, sales, use, business, occupation, gross receipts or similar tax on the Services, and for any applicable duty, import sales, uses, business, occupation, gross receipts or tax and shipping charges relating to equipment and repair parts furnished in connection with the Services. In the event ALPHA is required to respond to any subpoena or provide testimony (as a fact or expert witness) related to the Services, CLIENT shall pay ALPHA for time and expenses in accordance with ALPHA's then current fee schedule.

Section 17. Non-Solicitation

During ALPHA's performance on the Project and for a period of one (1) year after the Project is completed or otherwise terminated for any reason, CLIENT shall not, directly or indirectly, individually or on behalf of any other person, firm, partnership, corporation, or business entity of any type: (i) solicit, assist or in any way encourage any current employee, contractor or consultant of ALPHA to terminate his or her employment relationship or consulting relationship with or for ALPHA, nor will CLIENT solicit the services of any former employee or consultant of ALPHA whose service has been terminated for less than six (6) months, or (ii) solicit to the detriment of ALPHA and/or for the benefit of any competitor of ALPHA, take away or attempt to take away, in whole or in part, any customer of ALPHA or otherwise interfere with the ALPHA's relationship with any of its customers.

CLIENT understands and acknowledges that ALPHA's employees, contractors and consultants are a valuable resource to ALPHA, and often these persons hold confidential and or trade secret information of ALPHA's, including proprietary technology and valuable trade secrets of ALPHA, which are vital to the business of ALPHA and whose value depends upon them not being generally known. CLIENT expressly agrees that, if ALPHA's employees, contractors, and consultants are solicited in contravention of this Non-Solicitation provision, that ALPHA will be irreparably damaged. In such event, ALPHA shall be entitled, without bond, other security, or proof of damages, to appropriate equitable remedies with respect any breach(es) of this Agreement, including injunctive relief, in addition to any other remedies available at law or in equity.

Section 18. Resolution of Disputes

All claims, disputes, controversies or matters in question arising out of, or relating to, this Agreement or any breach thereof, including but not limited to disputes arising out of alleged design defects, breaches of contract, errors, omissions, or acts of professional negligence, (collectively "Disputes") shall be submitted to mediation before and as a condition precedent to pursuing any other remedy. Upon written request by either party to this Agreement for mediation of any dispute, CLIENT and ALPHA shall select a neutral mediator by mutual agreement. Such selection shall be made within ten (10) calendar days of the date of receipt by the other party of the written request for mediation. In the event of failure to reach such agreement or in any instance when the selected mediator is unable or unwilling to serve and a replacement mediator cannot be agreed upon by CLIENT and ALPHA within ten (10) calendar days, a mediator shall be chosen as specified in the Construction Industry Mediation Rules of the American Arbitration Association then in effect, or any other appropriate rules upon which the parties may agree.

Any disputes or controversies not resolved or settled by the parties hereto shall be submitted to arbitration. Demand for arbitration shall be made by either party within ten (10) calendar days following termination of mediation. The date of termination of mediation shall be the date of written notice of closing mediation proceedings issued by the mediator to each of the parties. Demand for arbitration shall be made by filing notice of demand, in writing, with the other party and with the American Arbitration Association, under its Construction Industry Rules. The award rendered, if any, by the arbitrator(s) shall be final and binding on both parties and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction. Notwithstanding any other provisions of this Section, in no event shall a demand for mediation or arbitration be made more than two (2) years from the date of the party making demand knew or should have known of the dispute or five (5) years from the date of substantial completion of ALPHA's Services, whichever date shall occur earlier.

All mediation or arbitration shall take place in Dallas County, Texas, unless CLIENT and ALPHA agree otherwise. The fees of the mediator and/or arbitrator(s), the mediation and/or arbitration filing and proceeding fees, and other costs associated with the mediator or arbitrator(s) shall be apportioned equally between the parties, subject to, in the case of arbitration, to adjustment by the arbitrator(s) as part of the award. The prevailing party in any arbitration proceeding shall be entitled to recovery of its reasonable attorneys' fees from the non-prevailing party, as determined by the arbitrator(s).

Section 19. Governing Law and Survival

The validity of this Agreement, these terms, their interpretation and performance shall be governed by and construed and enforced in accordance with the laws of the State of Texas without regard to its conflict of laws rules or similar principles which would refer to and apply the substantive laws of another jurisdiction, and applicable international conventions and treaties. The parties hereto hereby consent and agree that venue of any arbitration action shall lie exclusively in Dallas County, Texas, and the parties hereby consent to the exclusive jurisdiction of the state courts located in Dallas County, Texas to hear and determine any claims, disputes, or award between the parties arising out of such arbitration, or for any matter found to not arise under the parties' arbitration agreement. The parties hereto expressly submit and consent in advance to such jurisdiction and hereby waive any objection to such jurisdiction. If any of the provisions contained in this agreement are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired.

The City of Austin
Small & Minority Business Resources Department affirms that

Terradyne Engineering AUS, Inc.

is certified as a

Disadvantaged Business Enterprise

The City of Austin adheres to the U.S. Department of Transportation (DOT) DBE standards set forth in 49 CFR Part 26 and Part 23. This DBE certification shall be valid at any Texas entity that receives DOT funds and has a DBE program.

NAICS Code(s): **541330**

Veronica Briseño Lara, Director
Small & Minority Business Resources Department

VENDOR CODE: **INT7127050**

Certification is contingent upon the City receiving an affidavit of continued eligibility each year. Verification of certification status can be obtained by calling (512) 974-7645.

AGENDA ITEM:	Capital Excavation CMR #2
SUBMITTED BY:	Shawn Cox, City Administrator
DATE SUBMITTED:	October 1, 2018
MEETING DATE:	October 4, 2018

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

On January 18, 2018, Council awarded the Sewer Collection System Contract to Capital Excavation, and approved Change Order No. 1. The total contract amount (including the Change Order No. 1) is $3,616,230.00.

As a condition of cross cutting across Ranch Road 12, TxDOT required the use of flexible base and select backfill. To reduce costs while maintain the standards set by TxDOT, Capital Excavation requested and received permission to utilize Cement Stabilized Backfill (CSB). The requirement of CSB was not in the original contract totals $89,423.22 for the project.

Based on a reduction in quantities, the new contract total is $3,566,402.12. This includes the totals for the two (2) Contractors Modification Requests (CMR) being considered by Council at their October 4, 2018 meeting.

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

The City Administrator recommends approval of Capital Excavation's CMR #2.

CONTRACTOR'S MODIFICATION REQUEST

PROJECT NOS.

OWNER:	**City of Wimberley**		
PROJECT	**Wastewater Collection System**		
CONTRACTOR:	**Capital Excavation**		
ENGINEER:	**Alan Plummer Associates, Inc.**		
CMR NO.:	**CMR-02**	DESCRIPTION:	**Cement Stabilized Backfill**

NOTIFICATION BY CONTRACTOR:

We are requesting making the change to the Contract described in the attached materials and request that you take the following action:

- ☐ Notify us that you concur that this change does not require a change in contract time or amount. A Field Order will be issued.
- ☐ Issue a Change Order for performing the described change. Change in Contract amount and time are indicated in the attached detailed cost breakdown and revised schedule.

  The proposed change in cost is $xx.
  The proposed change in time is xx day(s).
- ☒ Issue a change order for the described change with payment at the unit price bid. **(See pg. 2 for details)**
- ☐ Authorize the Contractor to proceed with the change under the time and materials provision of the Contract.

REQUESTED BY:	Reed Hoysradt	9/19/2018
	TYPED NAME	DATE

RESPONSE FROM ENGINEER:

We respond to your request as follows:

- ☐ We concur that this is a no cost or time change. See attached Field Order.
- ☐ Your proposal is recommended to the Owner for incorporation into a Change Order.
- ☐ Proceed with the unit price bid for incorporation into a Change Order.
- ☐ Proceed with the change under the time and materials provision of the Contract.

RESPONSE BY:		
	TYPED NAME	DATE

ACTION TAKEN:

☐ Proposed contract modification rejected. Contractor notified not to proceed.	
☐ Field Order Issued	FO-
☐ Change Order Issued	CO-
RESPONSE BY:	
TYPED NAME	DATE

DESCRIPTION OF CHANGE TO THE CONTRACT
CRM-02

Cement Stabilized Backfill

1101 cy @$81.22/cy = **$89,423.22**

Basis for pricing of the CSB within TxDOT pavement is a backfill section from top of the pipe bedding to 4" below top of pavement. Lines include LN D across RR 12, LN K1, K2, 239 ft of LN I, and 130 ft of LN J main line and service. LN I and J may need to be revised once we have a final alignment.

AGENDA ITEM:	**Texas Water Development Board**
SUBMITTED BY:	Allison Davis, Place 3
DATE SUBMITTED:	September 27, 2018
MEETING DATE:	October 4, 2018

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Discuss and consider possible action regarding issues related to the Texas Water Development Board (TWDB) including, but not limited to, status of TWDB approval of change of scope of the Wimberley Wastewater project, discussion of meeting(s) with TWDB, by the mayor, and/or city council members, and/or staff and/or citizens.

REQUESTED ACTION

Motion ☑

Discussion ☑

Ordinance ☐

Resolution ☐

Other ☐

FINANCIAL

Budgeted Item ☐

Non-budgeted Item ☐

Not Applicable ☐

Original Estimate/Budget: $

Current Estimate: $

Amount Under/Over Budget: $

STAFF RECOMMENDATION

AGENDA ITEM:	**Tourism Management and Development Committee Appointments**
SUBMITTED BY:	Patricia Cantu Kelly
DATE SUBMITTED:	September 27, 2018
MEETING DATE:	October 1, 2018

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

City Council approved Ordinance No. 2018-36, establishing the Tourism Management and Development Committee on September 20th (see attached). The Committee will be composed of seven members:

- Four lodging operator representatives nominated by the Wimberley Valley Tourism and Lodging Association Board
- One Citizen Representative nominated by the City Council
- One Arts/Historical Attraction Representative nominated by the Wimberley Merchants Association Board

The following individuals have submitted applications for the Committee: Lois Mahoney, Dean Miller, Dan Sturdivant, Peggy Collins, Madonna Kimball, Natalie Meeks and Mark Bursiel

All applications are attached.

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

ORDINANCE NO. 2018-36

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, ESTABLISHING THE TOURISM MANAGEMENT AND DEVELOPMENT PROGRAM WITHIN THE CORPORATE LIMITS AND EXTRATERRITORIAL JURISDICTION OF THE CITY; SETTING FORTH THE DUTIES OF PERSONS RESPONSIBLE FOR SETTING THE TOURISM GOALS; TOURISM PLAN AND BUDGET; CREATING A TOURISM MANAGEMENT AND DEVELOPMENT COMMITTEE; AND PROVIDING FOR FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALER, AN EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Wimberley seeks to promote tourism and development throughout the corporate limits and extraterritorial jurisdiction; and

WHEREAS, the City Council finds it necessary to set tourism goals and provide for effective management of a tourism and development program within the Wimberley Valley.

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 ordinance as if copied in their entirety. This Ordinance is passed by one reading, as it is a matter of urgent public necessity.

SECTION II. TOURISM MANAGEMENT AND DEVELOPMENT COMMITTEE

A. **Purpose.** There is hereby established a seven-member Tourism Management and Development Committee (Committee), which shall oversee the development, implementation, management, and collection of any public funds for use in delivering, executing, monitoring, and overseeing the City's Tourism.

B. **Membership.**

1. Four Lodging Operator representatives nominated by the Wimberley Valley Tourism and Lodging Association Board.
2. One Citizen Representative nominated by the City Council.
3. One Arts/Historical Attraction Representative nominated by the Wimberley Valley Arts and Cultural Alliance Board.
4. One Merchants Association Representative nominated by the Wimberley Merchants Association Board.
5. Each Committee member shall be appointed to a two-year term and may be reappointed by the Council for two additional consecutive two-year terms. After serving a third consecutive two-year term, an individual is not eligible for reappointment for two-years.

6. Each Responsible Organization (Wimberley Valley Tourism and Lodging Association Board, Wimberley Valley Arts and Cultural Alliance Board, and Wimberley Merchants Association Board) shall provide its slate of nominees to the City Council no later than 30 days from the effective date of this Ordinance; otherwise, the Council may nominate committee members of its own choosing to represent the organization that did not nominate its own candidate.
7. All nominees must be representatives of a business or entity that is located within the City limits or extraterritorial jurisdiction of the City of Wimberley. The Citizen Representative nominee must live within the City limits or extraterritorial jurisdiction of the City of Wimberley.
8. Appointment to the Committee is subject to the approval of a majority vote of the Council. Members shall serve at the pleasure of the Council, and any member may be removed by majority vote of the Council at any time. In the event of removal, the Responsible Organization shall provide a replacement nominee no later than 30 days from the date of the vacancy; otherwise, the Council will nominate a person of its own choosing to fill the vacant position as representative for that organization.

C. <u>Responsibilities</u>

The Committee is responsible for the following:

1. Setting the five-year Tourism goals for the City that are consistent and aligned with the City's Comprehensive Plan and seeking approval of the same from the City Council.
2. Creating a Comprehensive Tourism Plan that is consistent and aligned with the City's Comprehensive Plan and that balances the needs of citizens and businesses.
3. Establishing an annual budget to bring to life the Tourism Plan.
4. Ensuring any initiatives implemented from the Comprehensive Tourism Plan are self-sustaining and self-funding in 12 or less months after implementation.
5. Shutting down, cancelling, and terminating initiatives that do not become self-sustaining and self-funding in 12 or less months after implementation.
6. Recommending to City Council what, if any, combination of public, grant, and private funding vehicles should be used to implement the Comprehensive Tourism Plan.
7. Ensuring no single industry, association, organization, and/or interest group is taxed or burdened solely or disproportionately for the benefit of others as a means to fund the Comprehensive Tourism Plan initiatives.
8. Overseeing and recommending to the City Council what to do with the remaining HOT balance fund collected under the repealed City of Wimberley Hotel Occupancy Tax ordinance 2015-017 and its amendments.
9. Ensuring any HOT funds used from the remaining HOT balance fund are strictly used as authorized by Chapter 351 of the Texas Tax Code.
10. Identifying, screening, selecting, managing, and terminating third party consultants, vendors, and contractors to assist in with Tourism Plan initiatives.
11. Overseeing the timely and proper execution of the Tourism Plan.
12. Creating a scorecard to measure progress and performance results of the Tourism Plan and supporting initiatives.
13. Reporting quarterly progress and results to the City Council
14. Tracking, monitoring, and reporting results and impacts to the community

15. Reporting to City Council and the City's Ethics committee any attempts to politicize and/or undermine the Tourism Management and Development ordinance, committee, and/or process.
16. Working with City Staff and other City Committees to communicate, coordinate, and integrate efforts and initiatives to achieve the Tourism goals and plans.
17. The Committee shall oversee, and review revenue received by the City through the Hotel Occupancy Tax and shall make recommendations to the City Council regarding appropriate expenditures.
18. All Committee recommendations are subject to approval of the Council. The Committee shall not spend any money or authorize the expenditure of any money.
19. Reviewing and formally recommending appropriate action for any City Council expenditures of Tourism Plan and Budget funds not initially recommended by the Committee.

D. Procedures.

1. All meetings of the Committee shall satisfy the requirements of the Texas Open Meetings Act.
2. The Committee shall elect a Chair, Vice Chair, and Secretary on an annual basis.
3. All Committee recommendations to the Council shall require an affirmative vote of the majority of all members of the Committee.

SECTION III. SUNSET REVIEW

A. Frequency of Review. On an annual basis from the effective date of this Ordinance, the Committee and Council shall conduct a sunset review of the Tourism Management and Development ordinance, initiatives, programs, and the work of the Committee.

B. Review Criteria. The purpose of the sunset review shall be to determine whether a public and business need exists for the continuation of the Tourism Management and Development ordinance, initiatives, programs, and the work of the Committee. The Council may consider the following criteria as part of its review:

1. The benefit(s) enjoyed by the City and the City's tourism industry as a result of the Tourism Management and Development ordinance, initiatives, programs, and the work of the Committee.;
2. Performance and compliance with applicable statutes and regulations;
3. The efficiency with which the Committee operates;
4. The extent to which the Tourism Management and Development ordinance, initiatives, programs, and the work of the Committee. and/or the Committee is needed or used;
5. The extent to which the Committee has encouraged participation by the public in making its decisions, as opposed to participation solely by an occupation, interest group, organization, business or an institution, and the extent to which the public

participation has resulted in decisions compatible with the objectives established by the Council for the Committee;

6. The extent to which the Committee has complied with the Open Meetings Act;
7. The extent to which Tourism goals have been achieved;
8. The extent to which Tourism Plan initiatives have become self-sustaining and self-funding
9. The economic and financial benefits achieved by the participants funding the Tourism plan and initiatives
10. Interest by the citizens in continuing such Tourism efforts and initiatives
11. Any other criteria identified by the Committee and/or Council.

SECTION IV. SAVINGS

The repeal of any ordinance or part of ordinances effectuated by the enactment of this Ordinance 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 Ordinance.

SECTION V. SEVERABILITY

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

SECTION VI. REPEALER

The provisions of this Ordinance 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 Ordinance, including, but not limited to, City of Wimberley Ordinance No. 2018-02, are hereby expressly repealed to the extent that such inconsistency is apparent. This Ordinance shall not be construed to require or allow any act that is prohibited by any other ordinance.

SECTION VI. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage.

SECTION 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. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this 20th day of September, 2018.

CITY OF WIMBERLEY

Susan B. Jaggers, Mayor

ATTEST:

Laura J. Calcote, City Secretary

APPROVED AS TO FORM:

City Attorney

City of Wimberley

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

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

Incorporated May 6, 2000

Application for Appointment to Commission / Board / Committee

Name of Commission/Board/Committee: Tourism Management and Development Board

Nominated By: WVTMA

Name: Lois Mahoney Phone: 972-965-5478 E-mail: Lois@Blairhouseinn.com

Physical Address: 100 West Spoke Hill Dr, Wimberley, TX 78676

Mailing Address
(If different than physical address): PO Box 2386 Wimberley, TX 78676

Employer: Blair House Inn Position/Occupation: Owner

Business Number: 512-847-1111 Fax:

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

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

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

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

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

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

37 years Lodging experience
CPA
Positions held in industry Corporate Controller, D.O.F.

Signature: [signature] Date: 9/24/18

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

RECEIVED
SEP 20 2018
BY

City of Wimberley

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

Application for Appointment to Commission / Board / Committee

Name of Commission/Board/Committee: Tourism Management and Development (TMAD)

Nominated By: Patricia Cantu Kelly

Name: Dean Miller Phone: 512-923 5204 E-mail: ranchodeluxe3@yahoo.co

Physical Address: 14 Palmer Lane Wimberley, TX 78676

Mailing Address
(If different than physical address): _____

Employer: Rancho Deluxe Position/Occupation: Owner/Retailer

Business Number: 512 847 9570 Fax: N/A

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

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

Do you or your employer have any business or other dealings with the City of Wimberley, which might present a conflict of interest? ( ) Yes (X) No
If "Yes" please explain: _____

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

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

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

Owner of Rancho Deluxe on Wimberley Square

Signature: Dean Miller Date: 9-19-18

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

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Incorporated May 6, 2000

RECEIVED SEP 21 2018 BY:

Application for Appointment to Commission / Board / Committee

Name of Commission/Board/Committee: Tourism Management and Development

Nominated By: _____

Name: Dan Sturdivant Phone: 210-882-2220 E-mail: DAN@HillCountryPremie.com

Physical Address: 745 Sunset Drive

Mailing Address
(If different than physical address): Same

Employer: Retiren Position/Occupation: _____

Business Number: 210-882-2220 Fax: None

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

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

Do you or your employer have any business or other dealings with the City of Wimberley, which might present a conflict of interest? ( ) Yes (✓) No
If "Yes" please explain: _____

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

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

Describe any qualifications, expertise, credentials or special interests that relate to your possible appointment. If you are not responding to a specific advertisement, please indicate the Commission/Board/Committee that you would prefer to serve on. BBA Texas AM Univ. Commerce, Co Founder of HCPL Past ~~Pres~~ Vice President Safelite Auto Glass (Windshields America) Owner of 7 Vacation Rental in Wimberley

Signature: Dan Sturdivant Date: 9/22/18

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

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Incorporated May 6, 2000

Application for Appointment to Board/Commission/Committee

Name of Board/Commission/Committee: Tourism Development Committee

Nominated By: Patricia Cantu Kelly

Name: Peggy Collins Phone: 713-206-8675 E-mail: philpeggy@aol.com

Physical Address: 575 Bendigo Lane Wimberley, TX 78676

Mailing Address
(If different than physical address): 13501 Ranch Rd 12 Suite 103 Wimberley 78676

Employer: Texas Property Masters Position/Occupation: Chief designer

Business Number: 713-206-8675 Fax: N/A

I reside: ☐ Inside Wimberley's City Limits ☐ Wimberley's ETJ ☑ Outside ETJ

I am a registered voter in: ☐ City of Wimberley ☑ Hays County ☐ Not Registered

Do you or your employer have any business or other dealings with the City of Wimberley, which might present a conflict of interest? ☐ Yes ☑ No
If "Yes" please explain: _____

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

Would you consider serving on a different Commission/Board/Committee? ☐ Yes ☑ No

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

Our family has owned and operated several vacation properties in the Wimberley area for almost 13 years. I feel serving on the tourism development committee is a great opportunity to not only provide more for our visitors but also for our community as a whole.

Signature: Peggy Collins Date: 9/20/2018

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

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Incorporated May 6, 2000

Application for Appointment to Board/Commission/Committee

Name of Board/Commission/Committee: Tourism Management and Development Committee

Nominated By: _____

Name: Madonna Kimball Phone: 512-847-5162 E-mail: madonna@suncountrypu

Physical Address: 6 DeLuna Lane

Mailing Address
(If different than physical address): _____

Employer: Self Employed Position/Occupation: Publisher/Advertising/Photo

Business Number: 512-847-5162 Fax: none

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

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

Do you or your employer have any business or other dealings with the City of Wimberley, which might present a conflict of interest? ( ) Yes (✔) No
If "Yes" please explain: _____

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

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

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

ed
My husband and I started and ran the Hill Country Sun, Hometown News and Views and Welcome to Wimberley Guide in 1990. We sold them after 16 years and now freelance (writing/marketing/ad sales/photography) for the statewide Texas Hill Country magazine. I have also attended the Texas Travel Industry Association Travel Fair for the past 10 years, representing Wimberley Market Days for the first 6 years and Texas Hill Country magazine the last four years.

Signature: Madonna Kimball Date: 9/17/2018

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

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Application for Appointment to Commission / Board / Committee

Name of Commission/Board/Committee: Tourism Management & Dev. Advisory Committee

Nominated By:

Name: Natalie Meeks Phone: (512) 665-0047 E-mail: nataliemeeks8@gmail.com

Physical Address: 13107 RR 12 Wimberley, TX 78676

Mailing Address
(If different than physical address): PO Box 1344 Wimberley, TX 78676

Employer: SLH Position/Occupation: Owner

Business Number: (512) 722-3848 Fax:

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

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

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

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

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

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

Lodging & event venue owner in Wimberley

Signature: Natalie Meeks Date: 9/25/18

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

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Incorporated May 6, 2000

Application for Appointment to Commission / Board / Committee

Name of Commission/Board/Committee: Tourism Mang. & Dev. Committee

Nominated By: _____

Name: Mark Bursiel Phone: 512-565-0073 E-mail: markhbc21@yahoo.com

Physical Address: 150 Caliche Road

Mailing Address
(If different than physical address): _____

Employer: Self Position/Occupation: realtor / lodging

Business Number: 512-847-3909 Fax: 512-847-6939

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

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

Do you or your employer have any business or other dealings with the City of Wimberley, which might present a conflict of interest? ( ) Yes (X) No
If "Yes" please explain: _____

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

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

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

Over 20 yrs in the lodging/tourism industry

Signature: [signature] Date: 9/25/18

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

AGENDA ITEM:	**MindEcology**
SUBMITTED BY:	Patricia Cantu Kelly
DATE SUBMITTED:	September 27, 2018
MEETING DATE:	October 4, 2018

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Attached is the RFP for the Destination and Advertising Campaign, the eight MindEcology contracts, payments made to MindEcology and Hotel Occupancy Tax Account information.

REQUESTED ACTION

Motion ☒

Discussion ☒

Ordinance ☐

Resolution ☐

Other ☐

FINANCIAL

Budgeted Item ☐

Non-budgeted Item ☐

Not Applicable ☐

Original Estimate/Budget: $

Current Estimate: $

Amount Under/Over Budget: $

STAFF RECOMMENDATION

Request for Proposals
Destination and Advertising Campaign

Paul Parker
Interim City Administrator
Phone: 512-847-0025
Fax: 512-847-0422
Email: pparker@cityofwimberley.com

www.cityofwimberley.com

November 22, 2017

Introduction

The City of Wimberley is requesting proposals for a destination and advertising campaign including, professional consulting services to develop a comprehensive print and online advertising campaign, provide brand direction, consulting, strategic planning, budget analysis and promotional evaluation.

Qualifications

Respondents should have staff members that represent all aspects of media relations and placement, search engine optimization and marketing, promotional insight and a comprehensive tourism destination marketing strategy. Interested agencies must be able to demonstrate success in previous destination and marketing campaigns on behalf of tourist destinations, tourist accommodations, tourist attractions, etc.

Scope of Service

The agency will work with the City of Wimberley to develop a more comprehensive destination marketing campaign, both state-wide and nationally, to attract tourists to Wimberley, Texas, with a special emphasis on increasing hotel/motel occupancy and retail visitors. From time to time, the agency may be asked to conduct conversion studies or mini-research projects.

It is the mission of the City to increase hotel occupancy and sales revenues by encouraging visitation to area restaurants, retail, meeting and event facilities, and attractions; to enhance the cultural, recreational and economic environment and activities in Wimberley and surrounding areas; to stimulate the creation of more tourism-related jobs; and to promote and advertise a defined image identifying the unique values of Wimberley.

The agency must perform all creative, copy writing, media placement, internet marketing and City website design. The agency will need to provide a history of arranging and contracting for photography, film and television production, printing, display construction and other outside services with the approval of the City.

Time Frame

The City of Wimberley will install a new sewer system starting in January 2018 and continuing throughout the calendar year. This project will disturb the downtown shopping area. The marketing plan should be designed to encourage shopping, especially during the sewer construction. The City is looking for a company that can immediately help plan and promote the downtown area. The destination marketing and advertising campaign will be executed throughout a one fiscal year cycle, and may be reviewed with the mutual consent of both parties.

Formatting

The response must be formatted and submitted on 8 ½" x 11" paper, numbered, typewritten with headings, sections and sub-sections identified appropriately. The response must be divided into sections, with references to sections of this request made on a subject/section number basis.

Deliverables

1. Letter of Transmittal: This letter will summarize, in a brief and concise manner, the respondent's understanding of the scope of work and make a positive commitment to perform the work in a timely manner. The letter should name all of the persons authorized to make representations for respondent, including the titles, addresses, and telephone numbers of such persons and list the location of the office from which the work is to be done. An authorized agent of respondent must sign the Letter of Transmittal indicating the agent's title or authority. The letter should not exceed two (2) pages in length.

2. Respondents will provide a list at least three (3) previous projects completed, with the names of the clients (name, address, telephone number, current fax number) that can serve as a reference.

3. Type of Business: Respondent shall identify the type of business entity involved (e.g., sole proprietorship, partnership, corporation, joint venture, etc.).

4. Respondents shall identify whether the business entity is incorporated in Texas, another state, or a foreign country.

5. Principals: The response must name all persons or entities serving, or intending to serve as principals in respondent's firm. Do you currently represent a Convention and Visitors Bureau, Tourist Development Council, Chamber of Commerce or other tourism related organization within the state? If yes, please name the entity (entities) and describe how you would handle that account along with the City's.

6. Provide examples of your firm's Travel/Tourism Campaigns.

7. Provide examples your firm's existing promotional campaigns- across various media platforms: print, direct mail, SEM, outdoor, radio and television.

8. List organizations you are a current member of that promote travel in the state of Texas and how many years you have been associated with them.

9. List seminars for travel/tourism attended in the past two years.

10. Provide letters of credit from state-wide publications in which you would recommend the City of Wimberley advertise.

11. List qualifications for staff members who would facilitate the production of state-wide campaigns using web, print, SEM, outdoor, radio and television.

12. Quantify your experience in internet marketing and placement on internet travel sites.

13. Provide examples of previous relevant experience with the full range of qualifications outlined in this request, including data on analysis of budgeting, billing, web marketing and results.

14. Provide performance on prior travel marketing projects, including data on reach and CPM.

15. Provide examples of printing projects with tourism emphasis—brochures, maps, outdoor guides, trail maps, etc.

16. Provide examples of directed photography with a tourism emphasis.

17. Tell us what makes your firm uniquely qualified to promote the City of Wimberley.

18. Please provide a brief business background and experience summary of each of your key officers and department heads.

Selection Process

The selection process involves two steps:

(1) The City of Wimberley will receive responses from prospective partners. The City will shortlist respondents for further consideration based on the responses to the criteria outlined in the qualifications and deliverables sections.

(2) No more than three (3) respondents will be invited to make a formal presentation at a specific time and place. Those respondents invited to make a formal presentation will be asked to present samples of existing work, ideas and

attitudes towards the handling of this account, and specific strategic concepts to achieve the maximum return possible. All costs associated with the presentation will be at the expense of respondents.

Project Submission

Deadline for submittal of proposals is Monday, December 11, 2017, at 2:00 p.m. at the City of Wimberley, 221 Stillwater, Wimberley, Texas 78676. Proposals received after this date and time will not be considered. No facsimile or emailed qualifications will be accepted. Proposals shall be submitted by mail or in person as follows:

City of Wimberley
ATTN: Paul Parker, Interim City Administrator
P.O. Box 2027
Wimberley, Texas 78676
Re: Destination and Advertising Campaign

The City of Wimberley reserves the right to reject any or all proposals and to choose the proposal or components of those which, in the opinion of the City, will best serve the interest of the organization.

Each proposal prepared in response to this request shall be done at the sole cost and expense of each proposing firm and with the express understanding that no claims against the City of Wimberley for reimbursement will be accepted.

Inquiries

Please contact Interim City Administrator Paul Parker with questions or additional information related to this RFP at pparker@cityofwimberley.com or (512) 847-0025.

San Marcos Publishing, LP
Wimberley View • Century News

P.O. Box 49, Wimberley, Texas 78676

(512) 847-2202

State of Texas
County of Hays

Before me, the undersigned authority, on this day personally appeared Dalton Sweat, who being by me here and now duly sworn, upon oath says:

My name is Dalton Sweat, and I am the General Manager, of the The Wimberley View & The Dripping Springs Century News, a newspaper of general circulation in Hays County, Texas, and a newspaper which has been regularly and continuously published in Wimberley, Hays County, Texas, for a period of more than one year immediately preceding the date of publications of the following, and that the said notice, a copy of which follows, was published in the regular edition of said newspaper for a period of 2 weeks on the following dates:

Nov. 23, 2017

Nov. 30, 2017

_____ 2017

_____ 2017

The said General Manager, Dalton Sweat further states that the rate charged for this publication is the lowest rate charged to commercial advertisers for the same class as advertising for a like amount of space.

D Sweat
Signature of Affiant

Subscribed and Sworn to me, by the said General Manager Dalton Sweat this 29th day of November, 2017 to certify which witness my hand and seal of office.

Mattatha Barker
NOTARY PUBLIC in and for
Hays County, Texas

NOTARY PUBLIC STATE OF TEXAS
MATTATHA MARIE BARKER
My Commission Expires
November 04, 2018

A full description of the Statement of Qualifications (SOQs) and submission requirements can be found on the City's website www.cityofwimberley.com. Deadline for submittal of SOQs is Monday, December 11, 2017, at 2:00 p.m. at the City of Wimberley, 221 Stillwater, Wimberley, Texas 78676. SOQs received after this date and time will not be considered. No facsimile or emailed qualifications will be accepted. SOQs shall be submitted by mail or in person as follows:

City of Wimberley
ATTN: Paul Parker, Interim City Administrator
P.O. Box 2027
Wimberley, Texas 78676
Re: City of Wimberley
Central Wimberley Wastewater
Project – Project Management

Please contact Interim City Administrator Paul Parker with questions or additional information related to this RFQ at pparker@cityofwimberley.com or (512) 847-0025.

NOTICE OF PUBLIC MEETING TO DISCUSS KATHERINE ANNE PORTER SCHOOL'S State Financial Accountability Rating

Katherine Anne Porter School will hold a public meeting at 5pm on December 18, 2017 in room 9 at the Katherine Anne Porter School, 515 FM 2325, Wimberley, Texas 78676. The purpose of this meeting is to discuss Katherine Anne Porter School's Superior Financial Integrity Rating for the 2016-17 school year. Results can be viewed here: https://pryor.tea.state.tx.us/Tea.Charter First.Web/Public/District.aspx

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NOTICE OF PUBLIC HEARING (WPDD Amendment)

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, December 14, 2017, at 6:00 p.m.** to consider the following: ZA-17-008 – an amendment to the Wimberley Planned Development District (WPDD) with base zoning of Commercial – Low Impact (C1) at 14835 RR 12.
This amendment proposes to increase the building footprint and project square footage. Upon recommendation of the Planning & Zoning Commission the City

at 221 Stillwater, Wimberley, Texas 78676.

PUBLIC NOTICE

City of Wimberley
Destination and Advertising Campaign
Request for Proposals

The City of Wimberley is requesting proposals for a destination and advertising campaign, including professional consulting services to develop a comprehensive print and online advertising campaign, provide brand direction, consulting, strategic planning, budget analysis and promotional evaluation.

A full description of the destination and advertising campaign and submission requirements can be found on the City's website www.cityofwimberley.com. Deadline for submittal of RFPs is Monday, December 11, 2017, at 2:00 p.m. at the City of Wimberley, 221 Stillwater, Wimberley, Texas 78676. RFPs received after this date and time will not be considered. No facsimile or emailed qualifications will be accepted. RFPs shall be submitted by mail or in person as follows:

City of Wimberley
ATTN: Paul Parker, Interim City Administrator
P.O. Box 2027
Wimberley, Texas 78676
Re: City of Wimberley
Central Wimberley Wastewater
Project – Project Management

Please contact Interim City Administrator Paul Parker with questions or additional information related to this RFP at pparker@cityofwimberley.com or (512) 847-0025.

PUBLIC NOTICE

Pursuant to the Texas Litter Abatement Act, these Abandoned and Junked vehicles will be sold at auction:

Drippin' Towin' Service, Inc.
12015 Bonham Ranch Road
Dripping Springs, TX 78620

November 27, 2017 @ 10:00 a.m.

Yr/Mk/Mdl – 2001 Infiniti I30
VIN – JNKCA31A21T010661
Lic – HXY8810(TX)

p.m. on January 9, 2018 at
City Hall, 511 Mercer Street,
Texas, to consider the site de
application for the Darden Hill
at 9900 Darden Hill Road fo
tion of a commercial storage
development permit applicat
for viewing at Dripping Spri
511 Mercer Street. Comment
proposed site development pe
may be emailed to acunningh
pingsprings.com or mailed to
Dripping Springs, TX 78620. F
tion call City Hall at (512)

General Help Wanted

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NOW HIRING

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Above a
Benefit
Flexible
All Shift

Apply
www.richa

General Help Wanted

Hill Country MHDD

HILL COUNTRY MENTAL HEALTH AND DEVELOPMENTAL

Part Time - Community Se

San Marcos DD Cente
Expanding Non-Profit Provider of
Health Services has a PT Oppo
CSA III in their Day Habilitation Se
at 1200 Bishop, San Marco
This is an excellent opportunity
graduating seniors OR job-seekers
about working with individuals with
Developmental Delays. Eligible car
posses H.S. Diploma / GED and ha
Driver's License. Must have great o
and communication skills AND be
about working with this population. A
30 hrs/ wk. Occasional evenings/
holidays. $10.95/hr.
Apply online @ wwwxhillcou
Hill Country MHDD Centers is an

General Help Wanted

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P.O. Box 49 Wimberley, Te

Public Notice

City of Wimberley
Destination and Advertising Campaign
Request for Proposals

The City of Wimberley is requesting proposals for a destination and advertising campaign, including professional consulting services to develop a comprehensive print and online advertising campaign, provide brand direction, consulting, strategic planning, budget analysis and promotional evaluation.

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City of Wimberley
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P.O. Box 2027
Wimberley, Texas 78676
Re: Destination and Advertising Campaign

Please contact Interim City Administrator Paul Parker with questions or additional information related to this RFP at pparker@cityofwimberley.com or (512) 847-0025.

PUBLIC NOTICE

City of Wimberley
Central Wimberley Wastewater Project
Request for Qualifications

The City of Wimberley seeks the services of a qualified individual or firm to provide professional project management services for the Central Wimberley Wastewater Project.

Public Notice

ORDINANCE NO. 1220.149

AN ORDINANCE OF THE CITY OF DRIPPING SPRINGS, TEXAS, AMENDING THE CODE OF ORDINANCES, CHAPTER 30, EXHIBIT A: SECTION 1.6.2; AND AMENDING APPENDIX E: ZONING USE REGULATIONS (CHARTS) PERMITTED USE PROVISIONS FOR DISTRICTS ZONED AS GENERAL RETAIL, COMMERCIAL SERVICES, LOCAL RETAIL, AND HISTORIC OVERLAY RELATED TO USES INCLUDING BAR USE AND THE SALE AND CONSUMPTION OF ALCOHOL IN SUCH; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; ENACTMENT; REPEALER; SEVERABILITY; CODIFICATION; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

NOTICE OF APPLICATION TO SUBDIVIDE

An application has been filed with HAYS COUNTY to subdivide 2.322 acres of property located at along MT Sharp Rd, Wimberley, TX 78676. Information regarding the application may be obtained from Hays County Development Services (512) 393-2150. Tracking number: SUB-907

NOTICE OF APPLICATION FOR SUBDIVISION

Public hearings will be held at the City of Dripping Springs Planning & Zoning Commission meeting at 6:30 p.m. on December 18, 2017 and at the City Council meeting at 6:30 p.m. on January 9, 2018 at the Dripping Springs City Hall, 511 Mercer Street, Dripping Springs, Texas, to consider the proposed Preliminary Plan Application for the Charro Vista Subdivision located at 23000 FM 150 W. Driftwood, TX. The project is available for

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Gen Help W

Date: April 17, 2018
Job Number: WTX-041718
Client: City of Wimberley, Texas
Description: **Creative Production:** *Additional Print Ad Versions & Addition Photography Purchase*

Project Background:
The City of Wimberley is interested in increasing tourism destination through an integrated marketing campaign with consistent messaging and branding. To meet these goals, MindEcology recommends the selection and purchase of additional print ad versions and photography for future use.

In March of 2018, Wimberley commissioned MindEcology to develop one (1) print ad and eight (8) professional photographs. Through the course of this development, many versions of the original print ad were discussed and developed. In addition, the professional photoshoot yielded additional photos that can be used on the new website and other, future marketing efforts.

This proposal is for the purchase of additional print ad versions along with additional photography. The purpose of the additional versions will help cover the various groups and messaging necessary to cover the core assets of the town.

Deliverables, Print Ads:

1. Print Ads – Full Page and 1/3rd version fitting the Texas Highways Magazine specifications.
2. Versions include:
    1. Blue Hole
    2. Lodging
    3. Blue Bonnets
    4. Shopping
    5. Art Galleries
    6. Jacob's Well

These additional versions are designed to represent a larger set of interested parties in Wimberley.

Deliverable, Photography:

8 photos will be delivered as part of the original agreement. MindEcology believes that 16 more photos need to be selected from the photography shoot held on April 10, 2018. This cost is to purchase 16 more (different) photos and will serve this campaign and future campaigns.

Investment:

• Additional 5 versions x 2 sizes = 10 more ads	$1,000
• Additional purchase of 16 photos ($100 per photo)	$1,600
Grand Total:	**$2,600**

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SIGNATURE AND PAYMENT TERMS:

Shawn Cox 4/23/18

APPROVED / Shawn Cox / City of Wimberley, Texas / DATE

CITY OF WIMBERLEY

LEGAL ENTITY NAME

TERMS:

1. Payment Terms: 100% due on May 15, 2018.
2. Work will begin once estimate/agreement is approved and received by MindEcology. Delay of receipt of signature approval and monies may delay the delivery time of project.
3. Production-ready files to be delivered. Cost of printing not included.
4. MindEcology is not responsible for any legal ramifications associated with this project.
5. Stated pricing is valid for up to 30 days from proposal creation date. Pricing is subject to change at any time prior to contract signing.
6. Payments made via credit card will incur a 3% credit card processing fee.
7. Early termination: if client choose to terminate the contract early, client must do so in writing. Absent breach by MindEcology, 100% of all fees and charges (whether paid or outstanding) will be due immediately and no deliverables will be due from MindEcology to the client.

ARBITRATION CLAUSE

In the event a dispute shall arise between the parties to this agreement, it is hereby agreed that the dispute shall be referred to designate a specific USA&M office or alternate service by agreement of the parties for arbitration in accordance with the applicable United States Arbitration and Mediation Rules of Arbitration. The arbitrator's decision shall be final and legally binding and judgment may be entered thereon. Each party shall be responsible for its share of the arbitration fees in accordance with the applicable Rules of Arbitration. In the event a party fails to proceed with arbitration, unsuccessfully challenges the arbitrator's award, or fails to comply with the arbitrator's award, the other party is entitled to costs of suit, including a reasonable attorney's fee for having to compel arbitration or defend or enforce the award.

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Date: April 17, 2018
Job Number: WTX-041718
Client: City of Wimberley, Texas
Description: **Media Placement:** *Texas Highways Magazine – Print Advertising (6 Months)*

Project Background:
The City of Wimberley is interested in increasing leisure tourism through an integrated marketing campaign with consistent messaging and branding. To meet these goals, MindEcology recommends implementing a prominent print campaign with Texas Highways Magazine. Texas Highways Magazine is a travel-oriented publication listing a readership of over 490,000.

Texas Highways Print Campaign

- Includes 6 print ads
- Three (3) of the ads will be full page, three (3) of the ads will be 1/3-page, vertical page print ads;
- The media placement will take place these months, alternating two ad sizes:
  - July 2018, August 2018, September 2018, October 2018, December 2018, January 2018.

This is 6 versions will featured the *Wonder Awaits* campaign.

Investment:

• Full-page ad ($6,878 x 3 insertions)	$20,634
• 1/3-page vertical page ad ($3,213 x 3 insertions)	$9,639
Grand Total:	**$30,273**

SIGNATURE AND PAYMENT TERMS:

Shawn Cox 4/23/18
APPROVED / Shawn Cox / City of Wimberley, Texas / DATE

CITY OF WIMBERLEY
LEGAL ENTITY NAME

TERMS

1. Payment Terms: $30,273 due to MindEcology. Payment of $15,136.50 due June 15, 2018. Payment of $15,136.50 due August 15, 2018.
2. Work will begin once estimate/agreement is approved and received by MindEcology. Delay of receipt of signature approval and monies may delay the delivery time of project.
3. Production-ready files to be delivered to the publication.
4. MindEcology is not responsible for any legal ramifications associated with this project.
5. Stated pricing is valid for up to 30 days from proposal creation date. Pricing is subject to change at any time prior to contract signing.
6. Payments made via credit card will incur a 3% credit card processing fee.

7. Early termination: if client choose to terminate the contract early, client must do so in writing. Absent breach by MindEcology, 100% of all fees and charges (whether paid or outstanding) will be due immediately and no deliverables will be due from MindEcology to the client.

ARBITRATION CLAUSE

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Date: **March 15, 2018**
Job Number: **WTX-031318 prnads**
Client: **City of Wimberley, Texas**
Description: **Creative Production:** *Print Ads for Texas Highways Magazine*

Project Background:
The City of Wimberley is interested in increasing tourism destination through an integrated marketing campaign with consistent messaging and branding. To meet these goals, MindEcology recommends a new print campaign to run in Texas Highways magazines and potentially other publications.

This proposal is for the creation of the print ad only and does not include the media placement.

Deliverable includes:

1. New Print Ad for Texas Highways Magazine
    a. Full page and 1/3rd version

Process & Steps for the print ad creation:

- **Step 1**: Brand Positioning Categories & Headlines
    - City of Wimberley to select 1 headline to be used across all mediums.
    - Separate proposal
- **Step 2:** Design initial concept & design.
- **Step 3:** Feedback from client – WTX management
- **Step 4:** Up to (2) rounds of changes included in each project.
    - Additional round of changes billed at $75 per hour.
- **Step 5:** Final approval from client via a dedicated single point of contact. Client approval must be submitted in writing or electronic signature.
- **Step 6:** Delivery of final, high-resolution production files.
    - Files sent electronically or shared via Dropbox.

- **Timeline of delivery:** With prompt responses from the client, City of Wimberley. MindEcology anticipates the entire and final project and art files being delivered within 21 days from signature and initial down payment. Prompt response is defined as within 48 hours (during normal business week.)

This project is turnkey and includes: concept, production, copywriting, account management and delivery of native files.

Investment amount does **not** include original photography or stock photography. Depending on concept, the WTX will either provide MindEcology with existing high resolution (300 dpi) photos or stock photos or select a photo from the photography proposal / project. Alternatively, original or stock photography will be scheduled and paid for separately with a separate agreement.

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Investment: Texas Highways Print Ads (full page and 1/3rd page) **$4,500**

SIGNATURE AND PAYMENT TERMS:

3/16/2018 3/16/2018

APPROVED / Sean Cox / City of Wimberley, Texas / DATE

City of Wimberley

LEGAL ENTITY NAME

TERMS:

1. Payment Terms: 50% due upon inception, 50% due net 30 days of delivery.
2. Investment amount does not include original or stock photography.
3. Work will begin once estimate/agreement is approved and received by MindEcology. Delay of receipt of signature approval and monies may delay the delivery time of project.
4. Production-ready files to be delivered. Cost of printing not included.
5. MindEcology is not responsible for any legal ramifications associated with this project.
6. Stated pricing is valid for up to 30 days from proposal creation date. Pricing is subject to change at any time prior to contract signing.
7. Payments made via credit card will incur a 3% credit card processing fee.
8. Early termination: if client choose to terminate the contract early, client must do so in writing. Absent breach by MindEcology, 100% of all fees and charges (whether paid or outstanding) will be due immediately and no deliverables will be due from MindEcology to the client.

ARBITRATION CLAUSE

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Estimate - CONFIDENTIAL

Date: **March 15, 2018** *revised*
Job Number: **WTX-031318dig**
Client: **City of Wimberley, Texas**
Description: **Digital Marketing Campaign for Increased Traffic & Web Presence**

Project Background
The City of Wimberley, Texas is interested in improving its local and regional presence and exposure to prospective visitors through an integrated, targeted digital campaign. This is a 6-month campaign. The target dates are from **April 1, 2018 through September 30, 2018.**

Provision. If the creative materials (example websites, banner ads, etc.) are not completed by the April 1st launch date, MindEcology will extend the campaign beyond the September 30th time period. Regardless of the launch date MindEcology will manage and deliver a 6-month campaign.

The actual launch date will be collectively decided by both the City of Wimberley and MindEcology.

Overview of Project
MindEcology will set up, execute, and manage an ongoing campaign designed to achieve these goals.

Project Deliverables
Below is a list of proposed deliverables and pricing

I. Google AdWords Text Ad Campaign
This service entails the setup and ongoing optimization and reporting of the AdWords text ad campaign. Services include:

A. Set all appropriate account settings as per client needs and current best practices
B. Write a minimum of 5-10 new, custom text ads
C. Develop a comprehensive list of target keywords
D. Set up appropriate ad groups and organize by keyword theme
E. Optimize campaign on an ongoing basis in order to reduce cost per conversion and maximize budget.
F. Add/remove keywords from campaign based upon performance needs.
G. Constantly adjust bid amounts on a per-keyword basis in order to strike proper balance between cost per conversion (or cost per click) and daily budget.
H. Prepare and send monthly performance reports, detailing which keywords & ads are most effective, as well as overall campaign statistics. Reporting is delivered via our own SnapReports reporting system.

*Management fee does not include the cost of ad clicks, paid directly to ad network by client.

II. Display Ad Campaign – Ongoing Optimization and Reporting
This service entails the setup and ongoing optimization, management and reporting of a banner ad campaign. Services include:

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A. Optimize campaign on an ongoing basis in order to reduce cost per impression and maximize budget
B. Add/remove targeting specifications based upon performance needs
C. Constantly adjust bid amounts on a per-keyword basis in order to strike proper balance between cost per impressions and daily budget.
D. Prepare and send monthly performance reports, detailing which keywords & ads are most effective, as well as overall campaign statistics. Reporting is delivered via our own SnapReports reporting system.

*Management fee does not include the cost of ad clicks, paid directly to ad network.

III. Banner Ad Creative

This task involves the expert creation of 3 new banner ad concepts for the Display Ad Campaign(s). 3 concepts x 3 sizes = 9 new ads). Headlines and concepts will be utilized from the Positioning / Headline project (separate) proposal.

IV. Facebook Ads

This task involves the setup and ongoing optimization and reporting of a Facebook ad campaign. Services include:

I. Create various ad variations that resonate with target audiences based upon location, demographics, interests, behaviors and connections.
J. Creative for Facebook Ads will be reflective and similar to the print ads and headlines created to show a uniformed look and feel. There will be 6 total Facebook ads to address the various assets of Wimberley.
K. Optimize campaign on an ongoing basis in order to reduce cost per conversion and maximize budget.
L. Constantly adjust bid amounts in order to strike proper balance between cost per conversion (or cost per click) and daily budget.
M. Prepare and send monthly performance reports, detailing which ads are most effective, as well as overall campaign statistics. Reporting is delivered via our own SnapReports reporting system.

*Management fee does not include the cost of ad clicks, paid directly to ad network by client.

Estimate - CONFIDENTIAL

Investment:

Full Digital Optimization & Reporting ($1,900 per month x 6 months) *(AdWords, Display, Facebook Traffic, Facebook Engagement)*	$11,400
AdWords Setup (one-time)	$599
Display Ad Setup (one-time)	$599
Facebook Ads- Traffic Driving Setup (one-time)	$599
Facebook Ads- Engagement Like Campaign Setup (one-time)	$599
Display Ad Creative- 3 concepts x 3 sizes = 9 ads (one-time)	$2,999
Facebook Ad Creative- 6 different creative (one-time)	$999
Total to MindEcology:	**$17,794**

****

Cost of ad clicks, with suggested budgets as follows:

Paid directly to ad networks on ongoing basis via client's own credit card. Not paid to MindEcology.

Google ad clicks ($15 per day x 30 days per month x 6 months)	**$2,700**
Display ad clicks ($20 per day x 30 days per month x 6 months)	**$3,600**
Facebook ad clicks- Traffic Driving ($15 per day x 30 days per month x 6 months)	**$2,700**
Facebook ad clicks- Engagement Like Campaign ($15 per day x 30 days per month x 6 months)	**$2,700**
Total to Ad Networks:	**$11,700**

SIGNATURE AND PAYMENT TERMS:

DocuSigned by:
Shawn Cox 3/16/2018
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APPROVED Sean Cox / City of Wimberley, Texas / DATE

City of Wimberley

LEGAL ENTITY NAME

TERMS

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Estimate - CONFIDENTIAL

1. Payment Terms:
    a. MindEcology Portion: **[$17,794]**: Setup ($6,394) + month 1 ($1,900) due on April 1, 2018, then $1,900 due on the first of each of the following 5 months. If the launch date is pushed back, the initial payment is due on that launch date.
    b. Ad Networks Portion: Ad click fees for AdWords text ad. Ad click fees for AdWords text ad campaign, retargeting campaign and display ad campaign are not included in "Total to MindEcology" fees described above and are to be billed separately, paid directly to ad networks.
2. No work will begin until estimate/agreement is approved and signed. Delay of receiving signature approval may delay the delivery time of project.
3. Delivery time as follows (calculated from date of receipt of initial payment):
    a. AdWords, retargeting, display ad optimization and SEO support: 8 calendar days
4. Project to be paid in full.
5. Stated pricing is valid for up to 30 days from proposal creation date. Pricing is subject to change at any time prior to contract signing.
6. Payments made via credit card will incur a 3% credit card processing fee.
7. Upon project completion (i.e., end of contract), MindEcology reserves the right to make the decision on whether MindEcology will pause any running digital campaigns and may or may not inform the client of such. It is the client's responsibility to pause, resume, manage and otherwise monitor any ongoing campaign(s) previously managed by MindEcology. Any charges made to the client's credit card as a result of digital campaign activity after campaign completion are solely the responsibility of the client.
8. Early termination: if client choose to terminate the contract early, client must do so in writing 30 days in advance of desired termination date. Absent breach by MindEcology, 100% of all accrued fees and charges (whether paid or outstanding) plus 30% of all un-accrued fees and charges (calculated on a pro-rated basis for the remaining, unfulfilled term) will be due to MindEcology at time of termination. Payment due upon termination.
9. MindEcology is not responsible for the legal research or ramifications associated with this project.
10. As needed, MindEcology will create a new Google Analytics account and generate the requisite tracking pixel/code to be placed on the client's website. However, the placement of the code on the client's website is the responsibility of the client.

Client signature establishes estimated pricing as a firm quote based solely on the stated description. Client changes, additions, and/or revisions relative to the scope of the project may affect pricing and/or delivery schedule. This estimate is valid for 30 days. Pricing does not include any applicable sales tax or additional shipping.

ARBITRATION CLAUSE

In the event a dispute shall arise between the parties to this agreement, it is hereby agreed that the dispute shall be referred to designate a specific USA&M office or alternate service by agreement of the parties for arbitration in accordance with the applicable United States Arbitration and Mediation Rules of Arbitration. The arbitrator's decision shall be final and legally binding and judgment may be entered thereon. Each party shall be responsible for its share of the arbitration fees in accordance with the applicable Rules of Arbitration. In the event a party fails to proceed with arbitration, unsuccessfully challenges the arbitrator's award, or fails to comply with the arbitrator's award, the other party is entitled to costs of suit, including a reasonable attorney's fee for having to compel arbitration or defend or enforce the award.

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Estimate - CONFIDENTIAL

Date: **March 15, 2018**
Job Number: **WTX-031318photo**
Client: **City of Wimberley, Texas**
Description: **Photography Creative 2018**

Project Background
The City of Wimberley, Texas is interested in improving its local and regional presence and exposure to prospective visitors. To help with this plan, MindEcology recommends the creation of new, professionally done photography. The end deliverable is 8 high resolution, color-corrected photos.

Overview of Project
MindEcology will manage a professional photography shoot. The shoot will include volunteers of locals to appear in the photos – for no compensation (to help save money.). MindEcology will create a shot list and set of locations as well as help coordinate times with the various locations, business owners, etc. MindEcology recommends pulling the volunteers from the HOT board and other local involved business owners, citizens.

The new photos will be used for the new website and potentially, but not limited to: print ads, Facebook ads, digital ads and social media usage.

Project Deliverables
Below is a list of proposed deliverables and pricing.

The final photos will be 8 photos of:

- Art Gallery
- Bed & breakfast
- Shopping – young group
- Shopping – mature group
- Wine setting – mature group
- Beer setting – young couple
- Restaurant – food shot
- Blue Hole – hiking

Project Deliverables
Below is a list of proposed deliverables and pricing.

New Photography
All day shoot. Includes a photography crew of:

1. Art direction onsite with MindEcology
2. Professional photographer
3. Professional equipment + lighting

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All 8 photos provided in high resolution files.

Estimate and project does not include professional models or people for the patient interaction. To keep costs down, MindEcology will work with the City's management or locals or HOT board members to be models. Professional models researched and provided at an extra cost.

Timeline of delivery: With prompt responses from the client, City of Wimberley, MindEcology anticipates the entire and final product to be delivered within 30 days from signature and initial payment.

Investment: **$4,500**

SIGNATURE AND PAYMENT TERMS: 3/16/2018

Shawn Cox

APPROVED Sean Cox / City of Wimberley, Texas / DATE

City of Wimberley

LEGAL ENTITY NAME

TERMS

1. Payment Terms: **[$4,500]**: 50% due upon inception, then 50% due net 30 days of delivery.
2. No work will begin until estimate/agreement is approved and signed. Delay of receiving signature approval may delay the delivery time of project.
3. Project to be paid in full.
4. Stated pricing is valid for up to 30 days from proposal creation date. Pricing is subject to change at any time prior to contract signing.
5. Payments made via credit card will incur a 3% credit card processing fee.
6. Early termination: if client choose to terminate the contract early, client must do so in writing. Absent breach by MindEcology, 100% of all fees and charges (whether paid or outstanding) will be due immediately and no deliverables will be due from MindEcology to the client.
7. MindEcology is not responsible for the legal research or ramifications associated with this project.

Client signature establishes estimated pricing as a firm quote based solely on the stated description. Client changes, additions, and/or revisions relative to the scope of the project may affect pricing and/or delivery schedule. This estimate is valid for 30 days. Pricing does not include any applicable sales tax or additional shipping.

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the arbitration fees in accordance with the applicable Rules of Arbitration. In the event a party fails to proceed with arbitration, unsuccessfully challenges the arbitrator's award, or fails to comply with the arbitrator's award, the other party is entitled to costs of suit, including a reasonable attorney's fee for having to compel arbitration or defend or enforce the award.

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Estimate - CONFIDENTIAL

Date: **March 15, 2018**
Job Number: **WTX-031318 cat**
Client: **City of Wimberley, Texas**
Description: **Brand Positioning Category + Headline Writing**

Project Background
The City of Wimberley, Texas is interested in improving its local and regional presence and exposure to prospective visitors. Both overnight and day trippers.

Overview of Project
MindEcology will help direct and decide on the correct positioning category for Wimberley. The positioning category will help guide and serve as the core message platform going forward. We will create 3 viable categories with corresponding headlines in each category.

Wimberley will select 1 final category and headline that will be used throughout the 2018 campaign and possibly beyond.

Project Deliverables
Below is a list of proposed deliverables and pricing.

1. **Categories**
   a) Development of 3 positioning categories for consideration. Each category will have at least 1 pro and con associated with the category.

2. **Headlines**
   a) Development of up to 7 headlines per category = total of 21 or more headlines to choose from.
   b) MindEcology will provide recommendations on final selection if requested.

3. **Timeline of Delivery**
   a) MindEcology anticipates this project being delivered within 7 days of signature approval. This is with the strict caveat of prompt response and final decision from the client, City of Wimberley. Prompt response is defined as within 48 hours (during normal business week).

Investment: **$999**

SIGNATURE AND PAYMENT TERMS:

Shawn Cox 3/16/2018

APPROVED Sean Cox / City of Wimberley, Texas / DATE

City of Wimberley

LEGAL ENTITY NAME

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Estimate - CONFIDENTIAL

TERMS

1. Payment Terms:
    a. MindEcology Portion: **[$999]**: 100% due upon inception.
2. This contract is non-cancellable.
3. No work will begin until estimate/agreement is approved and signed. Delay of receiving signature approval may delay the delivery time of project.
4. Project to be paid in full.
5. Stated pricing is valid for up to 30 days from proposal creation date. Pricing is subject to change at any time prior to contract signing.
6. Payments made via credit card will incur a 3% credit card processing fee.
7. MindEcology is not responsible for the legal research or ramifications associated with this project.
8. Early termination: if client choose to terminate the contract early, client must do so in writing. Absent breach by MindEcology, 100% of all fees and charges (whether paid or outstanding) will be due immediately and no deliverables will be due from MindEcology to the client.

Client signature establishes estimated pricing as a firm quote based solely on the stated description. Client changes, additions, and/or revisions relative to the scope of the project may affect pricing and/or delivery schedule. This estimate is valid for 30 days. Pricing does not include any applicable sales tax or additional shipping.

ARBITRATION CLAUSE

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Estimate - CONFIDENTIAL

Date: **March 13, 2018**
Job Number: **WTX-031318 soc**
Client: **City of Wimberley, Texas**
Description: **Social Media Content Marketing 2018: April – Oct 2018 (7 months)**

Project Background: City of Wimberley, Texas desires to create and start their first social media content campaign dedicated solely to the tourism-destination goals. This is a 7-month campaign, to run from April 1, 2018 through October 31, 2018.

Campaign Objectives:
1. Sustain & build awareness of The City of Wimberley's brand among the target audience.
2. Drive engagement and retention of The City of Wimberley's social followers
3. Support execution of /further carry out the marketing campaign.
4. Integrate existing and new video marketing into the social platforms

I. Facebook & Instagram

A. Content creation/scheduling of 30 posts per month. 15 posts per month on Facebook and 15 posts per month on Instagram.

B. Development and management of any contests/giveaways approved by The City of Wimberley's Management.

C. Appropriate reporting to client of noteworthy Facebook engagements, such as messages or comments from audience members.

D. Support/counsel as appropriate regarding compliance with Facebook Terms of Service.

E. Monthly reporting of Facebook analytics/outcomes, including recommendations for campaign strategy adjustment or improvement. Final deliverable is 1 summary report each month.

Investment:

Facebook & Instagram- 30 posts per month- content and reporting ($2,000 per month x 7 months)	$14,000
Facebook & Instagram- setup of specific tourism pages (one-time)	$899
Total due to MindEcology	**$14,899**

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SIGNATURE AND PAYMENT TERMS:

Shawn Cox 3/16/2018

APPROVED Sean Cox / City of Wimberley, Texas / DATE

City of Wimberley

LEGAL ENTITY NAME

TERMS

1. Payment Terms:
    a. MindEcology Portion: **[$14,899]**: Setup and first month of $2,899 due upon inception. Then $2,000 due on the first of each month for 6 more months.
2. No work will begin until estimate/agreement is approved and signed. Delay of receiving signature approval may delay the delivery time of project.
3. Project to be paid in full.
4. Stated pricing is valid for up to 30 days from proposal creation date. Pricing is subject to change at any time prior to contract signing.
5. Payments made via credit card will incur a 3% credit card processing fee.
6. Early termination: if client choose to terminate the contract early, client must do so in writing 30 days in advance of desired termination date. Absent breach by MindEcology, 100% of all accrued fees and charges (whether paid or outstanding) plus 30% of all un-accrued fees and charges (calculated on a pro-rated basis for the remaining, unfulfilled term) will be due to MindEcology at time of termination. Payment due upon termination.
7. MindEcology is not responsible for the legal research or ramifications associated with this project.
8. As needed, MindEcology will create a new Google Analytics account and generate the requisite tracking pixel/code to be placed on the client's website. However, the placement of the code on the client's website is the responsibility of the client.

Client signature establishes estimated pricing as a firm quote based solely on the stated description. Client changes, additions, and/or revisions relative to the scope of the project may affect pricing and/or delivery schedule. This estimate is valid for 30 days. Pricing does not include any applicable sales tax or additional shipping.

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Estimate - CONFIDENTIAL

Date: **March 15, 2018**
Job Number: **WTX-031318 vid**
Client: **City of Wimberley, Texas**
Description: **Video Creative & Production 2018**

Project Background
The City of Wimberley, Texas is interested in improving its local and regional presence and exposure to prospective visitors. To help with this plan, MindEcology recommends the creation of new, professionally done tourism-oriented video. This video will be used on the new website along with social media. The video length will be between 90 seconds and 2 minutes in length.

The video will likely be shot in April of 2018. Actual date depends on responsiveness from client and availability and level of cooperation from the Wimberley locations.

Overview of Project
MindEcology will manage & direct a full day of professional video crew complete with professional equipment, lighting and sound. The video will include 1 professional spokesperson.

The video will feature volunteer (background) of locals to appear in the video – for no compensation (to help save money.). MindEcology will create a shot list and set of locations as well as help coordinate times with the various locations, business owners, etc. MindEcology recommends pulling the volunteers from the HOT board and other local involved business owners, citizens.

Project Deliverables
Below is a list of proposed deliverables.

Video:

- Primary Concept
- Script & Storyboard
    - Concepts, Script and Storyboard to be approved by Wimberley management.
- Video Director / Direction from MindEcology & production crew.
- On-site (office) video production
    - Includes hair, makeup, lights, crew
- Coordination and selection of extras, people acting as visitors.
- Final production. Editing, sound, music, graphics, transitions, etc.
- Delivery of high resolution and web resolution video files.

I. Timeline of Video Delivery

a. Timeline is a range and is written with the understanding that managing "creative by committee" (i.e., multiple decision-makers involved in the creative process) can and will

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likely delay the delivery of this video. This timeline is written with the strict caveat of prompt response and final decision from the client, City of Wimberley. Prompt response is defined as within 48 hours (during normal business week).

b. Breakdown of timeline is as followed. Upon receiving approval and initial payment, the timeline is as such.

i.	Initial concept / storyboard:	3 to 5 days
ii.	Date of filming selection	5 to 7 days
iii.	Coordination of actors – locations	5 to 7 days
iv.	Filming	1-2 days
v.	Post editing	10 days

c. Delivery Estimate **30 days after approval & down payment**

Investment: **$13,000**

SIGNATURE AND PAYMENT TERMS:

Shawn Cox 3/16/2018

APPROVED Sean Cox / City of Wimberley, Texas / DATE

City of Wimberley

LEGAL ENTITY NAME

TERMS

1. Payment Terms: **[$13,000]**: $4,000 due upon approval. $4,000 is due net 30 days of signature. $5,000 is due net 30 days of delivery of video.
2. No work will begin until estimate/agreement is approved and signed. Delay of receiving signature approval may delay the delivery time of project.
3. Project to be paid in full.
4. Stated pricing is valid for up to 30 days from proposal creation date. Pricing is subject to change at any time prior to contract signing.
5. Payments made via credit card will incur a 3% credit card processing fee.
6. Early termination: if client choose to terminate the contract early, client must do so in writing. Absent breach by MindEcology, 100% of all fees and charges (whether paid or outstanding) will be due immediately and no deliverables will be due from MindEcology to the client.
7. MindEcology is not responsible for the legal research or ramifications associated with this project.

Client signature establishes estimated pricing as a firm quote based solely on the stated description. Client changes, additions, and/or revisions relative to the scope of the project may affect pricing and/or delivery schedule. This estimate is valid for 30 days. Pricing does not include any applicable sales tax or additional shipping.

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ARBITRATION CLAUSE

In the event a dispute shall arise between the parties to this agreement, it is hereby agreed that the dispute shall be referred to designate a specific USA&M office or alternate service by agreement of the parties for arbitration in accordance with the applicable United States Arbitration and Mediation Rules of Arbitration. The arbitrator's decision shall be final and legally binding and judgment may be entered thereon. Each party shall be responsible for its share of the arbitration fees in accordance with the applicable Rules of Arbitration. In the event a party fails to proceed with arbitration, unsuccessfully challenges the arbitrator's award, or fails to comply with the arbitrator's award, the other party is entitled to costs of suit, including a reasonable attorney's fee for having to compel arbitration or defend or enforce the award.

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mindecology
data-fueled marketing

Estimate – Confidential

Date: **March 15, 2018**
Job Number: **WTX-031318 web**
Client: **City of Wimberley, Texas**
Description: **Website Development for New Tourism Website**

Project Background
The City of Wimberley, Texas is interested in developing a new tourism website that will serve as an informational and visual resource for past, current and future Wimberley, Texas visitors.

The new website will be developed as per the process stated below. We propose an 10-page (+/- one page) website, including a calendar feature.

Bonus Feature: Temporary landing page

In addition, as a bonus and at no additional cost, MindEcology will *create a temporary, one-page website* to be hosted at the new URL. This page will serve as a placeholder for 4-5 weeks as the new site is developed. Details about the landing page:

- Go-live of the landing page will be within approximately 10 calendar days of contract signature, provided the client provides prompt approval of content.
- The look-and-feel of the landing page will NOT be subject to client committee review. The look-and-feel will differ significantly from the new, main website being built for later go-live (see below). The landing page will be very basic in terms of sophistication and form. It is merely to serve as a placeholder – a place to drive traffic to for a short period of time. It will feature The City of Wimberley's logo.
- It will share the same domain/URL as the new website
- It will be replaced with the new website once it is live

I. Website Development (for New Website):

Our web development process proceeds in the following steps:

1. Signing of contract
2. Initial design consultation by our expert, experienced design team
3. Creation of design brief and basic outline
4. Delivery of mockups (2 versions) for the optimal new look-and-feel for site (with client approval)
5. WordPress CMS integration and final site review
6. Go-live and quality assurance

Timeline
6-7 weeks, assuming prompt client feedback at each stage of the development process

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Suggested structure (subject to change once contract has started; final wireframe subject to client approval):

- Home
- About
  a. Contact
- Play

  a. Shop
  b. Artwork
  c. Natural Beauty
  d. Eat
  e. Events (redundant link as per below main item)

- Stay
- Events Calendar

Here are the tasks that MindEcology proposes:

DESIGN
==========

Two, Separate and Unique Home Page Designs for Client Consideration
— Used to demonstrate the exact look, feel, and functionality of your website
— Two rounds of client review and approval

Inner Home Page Designs for Client Consideration
— Used to demonstrate the exact look, feel, and functionality of your website
— Two rounds of client review and approval

Full-color Coded/Working Prototype/Mockup of Web site
— Used to demonstrate the exact look, feel, and functionality of your website

PRODUCTION
==========
Page Layout/Custom Template Creation
— Establish a series of Layouts/Templates that will be made available from within the CMS for the creation of pages
— Includes the following:
- Home Page Template
- Default/Interior Page Template (e.g., "Company", "Resources", "Contact Us", "Services", etc.)
Resources
- Events Calendar

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mindecology
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Content

MindEcology will develop the written content. Client will provide images/photographs for use on the site.

Assumptions

1. Development timeline of 6-7 weeks assumes timely & prompt responses from client upon requests for information or approval
2. Does not include URL purchase or renewal
3. Does not include site hosting, but includes setup of site on client-providing host
4. Does not include photos. Images requested by client can be purchased and invoiced separately on client's behalf, upon request.
5. Significant changes requested by client after each stage of approval may incur additional costs
6. As needed, MindEcology will create a new Google Analytics account and generate the requisite tracking pixel/code to be placed on the client's website.

Investment:

Total to MindEcology: **$11,500**

SIGNATURE AND PAYMENT TERMS:

DocuSigned by:
Shawn Cox 3/16/2018
3344B103CD1F408...

APPROVED Sean Cox / City of Wimberley, Texas / DATE

City of Wimberley

LEGAL ENTITY NAME

TERMS

1. Payment Terms: 30% due at inception, 30% due upon approval of design mockups 40% due at Net30 of go-live.
2. Work will begin once estimate/agreement is approved and received by MindEcology. Delay of receipt of signature approval and pre-payment may delay the delivery time of project.
3. Stated pricing is valid for up to 30 days from proposal creation date. Pricing is subject to change at any time prior to contract signing.
4. See "Assumptions" above for a list of items not included in this proposal.
5. Significant changes requested after each development stage is signed off by client that pertain to a previous stage, will incur additional charges.
6. The MindEcology web development process includes several distinct stages, each one officially acknowledged by the client via an electronic-based signature process, acting as official confirmation of completion of said stage. If - after a given stage has been completed and signed off by the client - the client wishes to request changes that require MindEcology to revert to an earlier stage, additional charges can and will apply. These additional charges will be officially quoted via formal "change request" contract by MindEcology to the client. The client's timely signing of the change request contract will be required for the project to move forward from that point. Delay in signing the change request contract can and will result in delayed project completion.
7. Image purchase for site is not included; images can be purchased on client's behalf and invoiced separately.
8. MindEcology is not responsible for any legal ramifications associated with this project.
9. Payments made via credit card will incur a 3% credit card processing fee.

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10. Early termination: if client choose to terminate the contract early, client must do so in writing 30 days in advance of desired termination date. Absent breach by MindEcology, 100% of all accrued fees and charges (whether paid or outstanding) plus 30% of all un-accrued fees and charges (calculated on a pro-rated basis for the remaining, unfulfilled term) will be due to MindEcology at time of termination. Payment due upon termination.
11. Delay charges: delays in client feedback that result in more than a 4-week consecutive delay in the project completion will cause application of a "project delay charge" equal to 5% of total project value per 4-week period of the delay. Furthermore, any client-side delays beyond 12 consecutive weeks will be interpreted as intention of project completion, at which time an amount equal to full project value plus 100% of incurred delay charges will be due and payable to MindEcology, regardless of project completion status. MindEcology will notify the client in writing (via e-mail or other written correspondence) in the cases whereby delay charges are to be incurred due to client-side delays.

ARBITRATION CLAUSE:

In the event a dispute shall arise between the parties to this agreement, it is hereby agreed that the dispute shall be referred to designate a specific USA&M office or alternate service by agreement of the parties for arbitration in accordance with the applicable United States Arbitration and Mediation Rules of Arbitration. The arbitrator's decision shall be final and legally binding and judgment may be entered thereon. Each party shall be responsible for its share of the arbitration fees in accordance with the applicable Rules of Arbitration. In the event a party fails to proceed with arbitration, unsuccessfully challenges the arbitrator's award, or fails to comply with the arbitrator's award, the other party is entitled to costs of suit, including a reasonable attorney's fee for having to compel arbitration or defend or enforce the award.

Display Invoices by Vendor

Date: 09/28/2018
Time: 10:14 am
Page: 1

City of Wimberley

Vendor Name: MINDECOLOGY
Vendor Number: MINDECOLOG

Invoice Number	Inv. Date	Ref No.	Status	Check No.	Check Date	Net Amt	PO No.	Invoice Description
	03/19/2018	5636	C	117	03/23/2018	24,142.00		HOT PROMOTING TOURISM
2581	05/16/2018	5932	C	125	06/07/2018	1,900.00		HOT
2582	05/16/2018	5931	C	125	06/07/2018	2,000.00		HOT
2590	06/03/2018	5933	C	125	06/07/2018	4,520.00		HOT
2646	06/15/2018	6063	C	127	07/06/2018	1,900.00		HOT
2647	06/15/2018	6064	C	127	07/06/2018	2,000.00		HOT
2663	07/02/2018	6142	C	129	07/20/2018	15,136.50		HOT
2690	07/06/2018	6240	C	131	08/14/2018	2,000.00		HOT
2544, 2545	05/01/2018	5839	C	122	05/04/2018	5,700.00		HOT PROMOTING TOURISM
2647, 2646	06/15/2018	6140	C	129	07/20/2018	3,900.00		HOT
2688, 2691	07/06/2018	6141	C	129	07/20/2018	3,900.00		HOT
2689, 2692	07/06/2018	6180	C	130	08/03/2018	3,900.00		HOT
2522, 2520, 2521	04/15/2018	5739	C	118	04/19/2018	7,900.00		HOT PROMOTING TOURISM
2528, 2529, 2530, 2531	04/24/2018	5838	C	122	05/04/2018	24,986.50		HOT PROMOTING TOURISM
Total Invoices: 14						103,885.00		

Display Invoices by Vendor

Date: 09/28/2018
Time: 10:38 am
Page: 1

City of Wimberley

Vendor Name: CARD SERVICE CENTER
Vendor Number: CARDSVCNTR

Invoice Number	Inv. Date	Ref No.	Status	Check No.	Check Date	Net Amt	PO No.	Invoice Description
	02/11/2018	5532	C	13671	03/05/2018	886.05		
	02/14/2018	5486	C	13640	02/14/2018	435.19		
	03/14/2018	5671	C	13767	04/04/2018	504.74		
	03/14/2018	5672	C	13767	04/04/2018	308.01		
	03/14/2018	5673	C	7234	04/04/2018	179.86		BHP
	03/14/2018	6161	C	13979	07/20/2018	308.01		APRIL 2018 (ADJ)
	03/14/2018	6162	C	7486	07/20/2018	179.86		BHP APRIL 2018 (ADJ)
	04/13/2018	5828	C	13818	05/04/2018	129.57		
	04/13/2018	5829	C	7282	05/04/2018	150.95		BHP
	04/13/2018	5830	C	1294	05/04/2018	192.50		WWOPS
	04/13/2018	5831	C	121	05/04/2018	520.95		HOT
	04/13/2018	5832	C	13818	05/04/2018	487.15		
	05/14/2018	5887	C	124	05/25/2018	1,593.98		HOT
	05/14/2018	5888	C	13866	05/25/2018	219.23		LC xxxx-0081
	05/14/2018	5889	C	13866	05/25/2018	34.63		WCC (500) BCs MA xxxx-0099
	05/14/2018	5890	C	7327	05/25/2018	34.63		BHP (500) BCs MA xxxx-0099
	06/13/2018	6000	C	13912	06/21/2018	293.90		
	06/13/2018	6001	C	126	06/21/2018	1,929.06		HOT
	06/13/2018	6002	C	13913	06/21/2018	884.12		
	06/13/2018	6003	C	7399	06/21/2018	93.74		BHP
	07/13/2018	6163	C	13978	07/20/2018	587.35		
	07/13/2018	6164	C	128	07/20/2018	1,901.11		HOT
	08/14/2018	6284	C	14045	08/24/2018	1,089.55		
	08/14/2018	6285	C	132	08/24/2018	1,924.92		HOT ADV
	08/14/2018	6286	C	7566	08/24/2018	286.75		BHP
Total Invoices: 25						15,155.81		

HOT $7870.02

Combined total $111,755.02

Monthly Invoices By Department Report - Detail w/Invoices

Date: 09/28/2018
Time: 10:56 am
Page: 1

City of Wimberley

Fund	Dept	Account	Reference	Check No	Bank	Vendor Name	Invoice Description Line 1	Post Date	Invoice Amount
205 - HOTEL OCCUPANCY TAX									
	15 - ADMINISTRATION								
		205-15-6370 - CONTRACT SERVICES							
			5931	125	HOTAX	MINDECOLOGY	HOT	05/16/2018	2,000.00
			5932	125	HOTAX	MINDECOLOGY	HOT	05/16/2018	1,900.00
								May 2018 Totals:	3,900.00
			5933	125	HOTAX	MINDECOLOGY	HOT	06/03/2018	4,520.00
			6001	126	HOTAX	CARD SERVICE CENTER	HOT	06/13/2018	1,929.06
								June 2018 Totals:	6,449.06
			6180	130	HOTAX	MINDECOLOGY	HOT	07/06/2018	1,900.00
			6180	130	HOTAX	MINDECOLOGY	HOT	07/06/2018	2,000.00
			6164	128	HOTAX	CARD SERVICE CENTER	HOT	07/13/2018	1,901.11
								July 2018 Totals:	5,801.11
			6285	132	HOTAX	CARD SERVICE CENTER	HOT ADV	08/14/2018	1,924.92
								August 2018 Totals:	1,924.92
		205-15-6370 - CONTRACT SERVICES TOTALS							**18,075.09**
		205-15-6592 - HOT DISBURSEMENTS							
			5636	117	HOTAX	MINDECOLOGY	HOT	03/19/2018	3,450.00
			5636	117	HOTAX	MINDECOLOGY	HOT	03/19/2018	4,000.00
			5636	117	HOTAX	MINDECOLOGY	HOT	03/19/2018	2,899.00
			5636	117	HOTAX	MINDECOLOGY	HOT	03/19/2018	2,250.00
			5636	117	HOTAX	MINDECOLOGY	HOT	03/19/2018	2,250.00
			5636	117	HOTAX	MINDECOLOGY	HOT	03/19/2018	8,294.00
			5636	117	HOTAX	MINDECOLOGY	HOT	03/19/2018	999.00
								March 2018 Totals:	24,142.00
			5739	118	HOTAX	MINDECOLOGY	HOT PROMOTING TOURISM	04/15/2018	7,900.00
			5783	120	HOTAX	WIMBERLEY CONVENTION AND		04/19/2018	50,840.00
			5838	122	HOTAX	MINDECOLOGY	HOT PROMOTING TOURISM	04/24/2018	5,000.00
			5838	122	HOTAX	MINDECOLOGY	HOT PROMOTING TOURISM	04/24/2018	2,250.00
			5838	122	HOTAX	MINDECOLOGY	HOT PROMOTING TOURISM	04/24/2018	15,136.50
			5838	122	HOTAX	MINDECOLOGY	HOT PROMOTING TOURISM	04/24/2018	2,600.00
								April 2018 Totals:	83,726.50

Monthly Invoices By Department Report - Detail w/Invoices

Date: 09/28/2018
Time: 10:56 am
Page: 2

City of Wimberley

Fund	Dept	Account	Reference	Check No	Bank	Vendor Name	Invoice Description Line 1	Post Date	Invoice Amount
			5839	122	HOTAX	MINDECOLOGY	HOT PROMOTING TOURISM	05/01/2018	2,250.00
			5839	122	HOTAX	MINDECOLOGY	HOT PROMOTING TOURISM	05/01/2018	3,450.00
			5853	123	HOTAX	WIMBERLEY ARTIST WORKSHOPS	HOT 3RD AND FINAL PAYMENT	05/11/2018	6,448.50
			5887	124	HOTAX	CARD SERVICE CENTER	HOT	05/14/2018	17.08
			5887	124	HOTAX	CARD SERVICE CENTER	HOT	05/14/2018	500.00
			5887	124	HOTAX	CARD SERVICE CENTER	HOT	05/14/2018	500.00
			5887	124	HOTAX	CARD SERVICE CENTER	HOT	05/14/2018	-23.10
			5887	124	HOTAX	CARD SERVICE CENTER	HOT	05/14/2018	250.00
			5887	124	HOTAX	CARD SERVICE CENTER	HOT	05/14/2018	350.00
								May 2018 Totals:	13,742.48
			6063	127	HOTAX	MINDECOLOGY	HOT	06/15/2018	1,900.00
			6064	127	HOTAX	MINDECOLOGY	HOT	06/15/2018	2,000.00
			6140	129	HOTAX	MINDECOLOGY	HOT	06/15/2018	3,900.00
								June 2018 Totals:	7,800.00
			6142	129	HOTAX	MINDECOLOGY	HOT	07/02/2018	15,136.50
			6141	129	HOTAX	MINDECOLOGY	HOT	07/06/2018	3,900.00
			6240	131	HOTAX	MINDECOLOGY	HOT	07/06/2018	2,000.00
								July 2018 Totals:	21,036.50
		205-15-6592 - HOT DISBURSEMENTS TOTALS							**150,447.48**
		205-15-6610 - OPERATING SUPPLIES							
			5831	121	HOTAX	CARD SERVICE CENTER	HOT	04/13/2018	520.95
								April 2018 Totals:	520.95
		205-15-6610 - OPERATING SUPPLIES TOTALS							**520.95**
	15 - ADMINISTRATION TOTALS								**169,043.52**
205 - HOTEL OCCUPANCY TAX Totals									**169,043.52**
								GRAND TOTAL:	**169,043.52**

RECEIPTS BY RECEIPT TYPE - DETAIL RECEIPTS

From 10/01/2017 To 09/28/2018

9/28/2018
11:32 am

City of Wimberley

Receipt #	Drawer	Received From	Reference ID	Post Date	Amount
Receipt Type: HOTAX Hotel Occupancy Tax					
2906	MALCA	WIMBERLEY CHAMBER OF COMMERCE	TERMINATION OF CONTRACT 021518	08/06/2018	$12,250.00
2954	MALCA	MINDECOLOGY	REFUND	08/31/2018	$1,900.00
2963	MALCA	MINDECOLOGY	CREDIT	09/07/2018	$1,800.00
	HOTAX Hotel Occupancy Tax		3	Total:	$15,950.00

Grand Total Count: 3 Grand Total: $15,950.00

AGENDA ITEM:	**Collection Letter**
SUBMITTED BY:	Patricia Cantu Kelly
DATE SUBMITTED:	September 27, 2018
MEETING DATE:	October 4, 2018

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Attached is the collection letter sent to the Wimberley Convention and Visitors Bureau Foundation on September 14, 2018 requesting $38,590 be returned to the City by October 1, 2018 for breach of services contract.

REQUESTED ACTION

Motion	☒
Discussion	☒
Ordinance	☐
Resolution	☐
Other	☐

FINANCIAL

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

STAFF RECOMMENDATION

City of Wimberley

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

Susan Jaggers, Mayor Gary Barchfeld, Mayor Pro-tem
Council Members – Mike McCullough Craig Fore Allison Davis Patricia Cantu Kelly

September 14, 2018

Cathy Moreman, Executive Director
Michael Scott, Treasurer
Wimberley Convention and Visitors Bureau
PO Box 12
Wimberley, TX 78676

Re: Return of Hotel Occupancy Tax Funds

Mr. Scott,

On February 15, 2018, the City of Wimberley and the Wimberley Convention and Visitors Bureau Foundation entered into a Visitors Center Operations Agreement. Under this Agreement, the Visitors Center was provided $50,840.00 in funding for the following services:

- Annual Expenses for Fiscal Year 2017 - $38,590.00
- Projected Expenses for Fiscal Year 2018 - $12,250.00

This agreement was terminated on July 23, 2018 by the Wimberley Convention and Visitors Bureau Foundation, and $12,250.00 for projected FY 2018 expenses was returned. The termination was formally accepted by the City on August 16, 2018.

Under Section IV. Services Provided, Subsection 4.2(a)i., the Visitor Center agreed to provide the following service:

> i. The Visitor Center will operate and maintain the Visitor Center facility and provide information to area visitors. The Visitor Center agrees to treat all tourist lodging facilities in a reasonably consistent manner and to provide information to tourist regarding all lodging options within the City.

This was one of two affirmative duties required by the Visitor's Center and the Center did not act accordingly. The City has information and knowledge that in FY 2017, only Chamber of Commerce member information was provided to visitors and tourists. This is a direct violation of the Agreement and primary duty required by the Center.

Additionally, the City has information and knowledge that requirements under Section V. Budget, Accounting, and Reporting Requirements, Subsection 5.5 Quarterly Financial Reporting,

Subsection 5.6 Additional Quarterly Financial Quarterly Reporting, and Section VIII> Miscellaneous, Subsection 8.3 Insurance, have not been met.

As the services and contractual obligations required to be provided per the agreement were not met, the City of Wimberley requests that the remaining balance of funds ($38,590.00) provided to the Wimberley Convention and Visitors Bureau Foundation for FY 2017 expenses be returned to the City of Wimberley by October 1, 2018.

Sincerely,

Shawn Cox
City Administrator