WINDCREST
TEXAS

CITY OF WINDCREST, TEXAS

SPECIAL CITY COUNCIL MEETING

CHARTER AMENDMENT PUBLIC HEARING

January 24, 2019

City Council Meeting
6:00 P.M.

NOTICE IS HEREBY GIVEN THAT A SPECIAL CITY COUNCIL MEETING/PUBLIC HEARING WILL BE HELD AT WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS ON THE 24TH DAY OF JANUARY 2019 STARTING AT 6:00 P.M. DURING THE MEETING THE FOLLOWING SUBJECTS WILL BE CONSIDERED AND THE COUNCIL OR BOARD OR BOTH MAY TAKE ACTION ON ANY OF THE LISTED SUBJECTS.

THE CITY COUNCIL AND THE BOARD RESERVES THE OPTION TO RECESS THE MEETING DURING THE EVENING OF JANUARY 24, 2019 AND TO RECONVENE THE MEETING ON THE FOLLOWING DAY, JANUARY 25, 2019 AT 9:00 A.M. AT THE WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS.

IT IS ANTICIPATED THAT MEMBERS OF OTHER CITY BOARDS, COMMISSIONS AND COMMITTEES MAY ATTEND THE MEETING IN NUMBERS THAT MAY CONSTITUTE A QUORUM OF SUCH OTHER CITY BOARDS, COMMISSIONS AND COMMITTEES, SO THAT NOTICE IS HEREBY GIVEN THAT THE MEETING IS ALSO A MEETING OF THE OTHER CITY BOARDS, COMMISSIONS AND COMMITTEES WHOSE MEMBERS ARE IN ATTENDANCE. THE MEMBERS OF THE OTHER CITY BOARDS, COMMISSIONS AND COMMITTEES MAY PARTICIPATE IN DISCUSSIONS WHICH OCCUR AT THE MEETING, BUT NO ACTION WILL BE TAKEN BY THE OTHER BOARDS, COMMISSIONS AND COMMITTEES WHOSE MEMBERS ARE IN ATTENDANCE. [Attorney General Opinion – No. GA-0957 (2012)]

REQUEST ALL PAGERS AND CELL PHONES BE TURNED OFF, EXCEPT EMERGENCY ON-CALL PERSONNEL. CITIZENS ARE ASKED TO REFRAIN FROM TALKING DURING COUNCIL PROCEEDINGS.

Ordinance No. 2016-618B(O) establishes certain protocols for City Council meetings.
At all City Council, City Commission or City Board meetings, the agenda shall include a "citizens to be heard" item. It is suggested that Citizens wishing to speak during this item sign in on the sign up roster prior to the meeting. During "Citizens to be Heard", citizens may address the City Council on topics not on the agenda for no more than three (3) minutes. In addition to the foregoing, citizens shall also have the opportunity to address the City Council during consideration of posted agenda items for no more than six (6) minutes. Each citizen shall therefore have the opportunity to address the City Council for a total of nine (9)

minutes. This does not include any responses from the body. The six (6) minutes time limit authorized herein may not be transferred to another speaker in whole or in part. The presiding Officer or his/her designee will assign a Time Keeper to each meeting. The Time Keeper will maintain strict compliance of the six (6) minute rule, stopping speakers who exceed the allotted time. As authorized by Section 551.042 of the Texas Government Code, a city official may make a statement of specific factual information in response to an inquiry made by a member of the public or a recitation of existing city policy. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting. Any question posed by a Citizen, Council Member, Board Member or Commission Member for which an answer is not available at a meeting shall be answered by a member of the staff or Presiding Officer at the next regular meeting of the Body, if an answer is reasonably available and prudent. If the information is sensitive, staff will seek advice from the City Attorney.

Meeting Chair: Please remind each participant in your meeting that they must speak into a microphone; the recording is the Official Minutes of your meeting and all who speak must be recorded. All guest speakers and citizens to be heard must speak from podium. Please interrupt speakers during meeting if you recognize that they are not speaking into microphone and have them do so. Citizens should conform behavior to the City's Rules of Conduct and Decorum for Public Meetings, as adopted by the City Council.

I. Call to Order, Pledge of Allegiance, Invocation

II. Citizens to be Heard

1. Citizens may address the City Council on topics not on the agenda for no more than three (3) minutes.

2. In addition to the foregoing, citizens shall also have the opportunity to address the City Council during consideration of posted agenda items for no more than six (6) minutes.

3. A City Official may make a statement of specific factual information in response to an inquiry made by a member of the public, or a recitation of existing policy in response to an inquiry made by a member of the public.

III. Public Hearing

1. City Council will conduct a Public Hearing to receive public comments on proposed Charter Amendments to the City of Windcrest Home Rule Charter.

IV. Discussion and Act

1. The City Council will review, discuss and may take action on citizen input and comments regarding the proposed Charter Amendments to the City of Windcrest Home Rule Charter.

V. Adjournment

The City Council reserves the right to retire into executive session whenever it is considered necessary and legally justified under the Texas Government Code, Subchapter D, Sections 551.071 et. seq. including, but not limited to, consultation with attorney, real property, prospective gifts, personnel matters, exclusion of witness, security devices, and economic development matters.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the City Council of the City of Windcrest is a true and correct copy of said Notice and was posted on the bulletin board at City Hall of said City in a convenient place to the public and said Notice was posted more than seventy-two hours prior to the meeting on January 17, 2019.

By: Marie Gelles, Interim City Secretary

In Compliance with the Americans With Disabilities Act, the City of Windcrest Council Chambers are wheelchair accessible, and accessible parking spaces are available. The City of Windcrest will provide for reasonable accommodations for persons attending City Council meetings. To better serve you, requests should be received 48 hours prior to the meetings. Please contact David Rodulfo Jr, Assistant City Secretary, at 210.655.0022 ext. 2150 or Fax 210.655.8776.

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the ____ January, 2019.

_____ Title: Interim City Secretary

Exhibit A

PROPOSITION I

SHALL SECTIONS 3.07, 3.08, 3.09, 3.12, AND 10.3 OF THE CITY CHARTER BE AMENDED TO CLARIFY THE ETHICAL STANDARDS IMPOSED UPON COUNCIL MEMBERS, CHANGE THE PROCEDURE FOR CONSIDERING COMPLAINTS AGAINST COUNCIL MEMBERS, INVESTIGATIONS INTO COMPLAINTS, REMOVAL FROM OFFICE FOR MEMBERS OF THE CITY COUNCIL AND FILLING VACANCIES ON THE CITY COUNCIL?

Proposition I would amend the specifically listed sections to read as follows:

Sec. 3.07. - City Council to Judge Qualifications of Members

The City Council shall be the sole judge of the qualifications of its members under Section 3.04, and the grounds for forfeiture of their office under Section 3.08. In order to exercise these powers, the City Council shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published one (1) time in the designated official newspaper of the City at least one (1) week in advance of the hearing.

Sec. 3.08. - Removal of Elective Officers; Grounds for Removal

A. *Causes.* The Mayor or any City Council member shall be subject to investigation, censure, or removal from office for any one (1) or more of the following causes:

(1) Incompetence, misfeasance or malfeasance in office;

(2) Conviction of a crime involving moral turpitude;

(3) Failure at any time to possess any of the qualifications of office as provided by this Charter or by state law;

(4) Willful violation of any express prohibition of this Charter;

(5) Abandonment of office or neglect to perform the duties thereof;

(6) Failure for any other cause to perform the duties of office as required by this Charter or by law; or

(7) Any of the grounds listed under Texas Local Government Code Section 21.022 and Section 21.025 [V.T.C.A., Government Code §§ 21.022 and 21.0245].

B. *Initiation.* Removal proceedings shall be initiated when a sworn written complaint charging a member of the City Council with an act or omission that is a cause for removal is presented to the Mayor or, if the complaint is against the Mayor, to the Mayor *Pro Tempore*. To be a valid complaint, such complaint must specify the section or sections of the Charter or law the charged member of the Council is alleged to have violated and the specific factual basis for

the belief a violation has occurred. The Mayor or Mayor *Pro Tempore*, may not dismiss a complaint based on the factual allegations but must present the complaint to the City Council. The Mayor or Mayor *Pro Tempore* receiving the complaint shall file it with the City Secretary within three (3) working days, who then shall provide a copy to the member complained against and all other Council Members within three (3) working days. The Mayor or the Mayor *Pro Tempore* shall set a time and date for a hearing on the complaint within sixty (60) days of the presentation of the sworn complaint.

If the City Attorney believes, in his/her sole discretion, that independent legal advice is required for the City Council, the City Attorney may appoint and retain independent outside legal counsel to represent the City Council for purposes of the complaint and hearing.

C. *Hearing and decision.* The remaining members of the City Council shall conduct a hearing to hear and review evidence regarding the sworn complaint.

1. The member complained against shall have a right to representation at the hearing and to question and cross-examine all witnesses but may not vote on the question of removal;

2. All hearings held under this subsection shall be conducted in open session, except (a) that the City Council may conduct a closed session to get advice from its attorney pursuant to the Texas Open Meetings Act or (b) the member complained against requests the deliberations be conducted in executive session;

3. The member complained against and subject to any investigation and/or hearing under this section shall be entitled to written notice of the allegations of removal or forfeiture and/or the alleged violation of this Charter as applicable;

4. A member of City Council who initiated or is the subject of the investigation or hearing shall not sit at the dais and shall not participate in deliberation or vote;

5. The City Council may adopt by ordinance rules of procedures to be followed during a hearing under this section;

6. At the beginning of the hearing, while in open session, the presiding officer shall state the nature of the hearing and the allegations to be considered;

7. The City Council shall be provided the results of any investigation and a presentation of the evidence against the member complained against including, but not limited to, testimony from individuals. Such results are confidential during the pendency of the charges and shall not be released while a complaint is pending;

8. The individual who is subject to the hearing shall be provided an opportunity to respond to the allegations and present any relevant evidence including, but not limited to, testimony from individuals;

9. The City Council may ask questions of any individual and demand the production of documents;

10. For purposes of a hearing under this section, no public comment shall be allowed unless agreed to by a majority vote of the members of the City Council present;

11. In the case of a violation of this section of the Charter or Section 3.085, City Council shall vote on the removal from office as an individual item. If the City Council determines by at least an eighty (80%) percent affirmative vote of the City Council present at the hearing, excluding the accused member, that removal is warranted, it shall declare a forfeiture, declare the office holder removed and the position vacant. A vacancy shall be filled consistent with this Charter;

12. The City Council may, for any violation which is not a qualification for office, impose a censure or other penalty upon a determination the charged member is in violation of this section of the Charter;

13. Any decision of the City Council shall be voted on in open session. After a vote on whether a violation has occurred, the City Council shall set out, in a subsequent meeting and in a written resolution, its decision. As each remaining member of the City Council may have different reasons for a specific vote, the collective grounds for the vote need not be set out in the resolution. Such resolution shall be issued regardless of whether the vote was for or against a determination a violation occurred;

14. The decision of the City Council shall be final and binding.

Sec. 3.09. - Vacancies on the City Council

A. The office of a City Council member or office of the Mayor shall become vacant upon death, resignation, recall, or removal from office in any manner authorized by law or this Charter, or forfeiture of office.

B. A City Council member or the Mayor shall forfeit office if they lack, at any time during the term of office, any qualifications for the office prescribed by this Charter or law, or failure to attend three (3) consecutive City Council meetings, whether they be regular or special meetings, without being excused by the City Council. The City Council shall be the final judge in matters involving forfeiture of office by a City Council member. An assertion a City Council member has three (3) consecutive unexcused absences from regular meetings may be brought by any member of the public or the City government, which will trigger the hearing requirements set forth in section 3.08.

C. If for any reason a vacancy exists on the City Council, the remaining members of the City Council shall select a person qualified for the position, as described in the Charter, within thirty (30) days of the occurrence of the vacancy. An official who has been recalled or removed may not be reappointed to any immediate vacancy. Once appointed, the person shall serve until the position can be filled at the next regular

election date. Notwithstanding subsection (D), if more than one vacancy exists on the City Council, the remaining members shall select persons qualified for the vacant positions in the order the vacancies occurred. Such selection must be made consistent with state law.

D. In the event that a legal quorum of the elected City Council cannot be convened due to a disaster resulting in multiple injuries, deaths, or forfeiture of offices, the surviving City Council members and the Board chairs, and, if necessary, in order of succession, the (1) Board Vice Chairs of the Economic Development Corporation, (2) Planning and Zoning Commission and (3) Board of Adjustment, in numbers sufficient to constitute an interim City Council shall quorum, within fifteen (15) days of such disaster, or as provided in the Texas Election Code, call for an election to fill all vacant City Council positions. Such constituted interim City Council shall serve until the requested election occurs.

Sec. 3.12. - Investigations by City Council

The City Council shall have the power to inquire into the affairs of the City and the conduct of any City department, office, agency, officer, or employee of the City and to make investigations as to municipal affairs, and for these purposes may subpoena witnesses, administer oaths, take testimony, and compel the production of reports, papers, and other documentary evidence. Failure or refusal to produce evidence, to comply with a subpoena, or to obey a lawful order issued in the exercise of these powers by the City Council shall be enforced through all criminal, civil, and administrative means available under state law and set out in the City's Code of Ordinances.

Sec. 10.3. - Ethics, Standards of Conduct, and Conflicts of Interest

The City Council shall develop and adopt a City Code of Ethics within one (1) year of approval of this Charter.

10.3.1. *Conduct of administrators and elected officials.* The conduct of City administration will comply with all state laws and restrictions in this Charter. The conduct of elected and appointed officials must be of the highest moral and ethical standards.

10.3.2. *Financial interests to comply with Texas law*. The Mayor, the City Council, and all City officials, elected or appointed, shall comply with the rules and regulations regarding personal financial interests as set out in State law.

10.3.3. *Anti-Discrimination laws apply*. There shall be no discrimination in the administration of the City's business based on race, religion, national origin, sex, age, or political affiliation by any elected or appointed official or City employee except to the extent exceptions are expressly authorized by state or federal law.

10.3.4. *Annual review of Code of Ethics.* The City Council will annually review and amend the Code of Ethics as needed.

The proposition on the ballot shall state as follows:

PROPOSITION I

"SHALL SECTIONS 3.07, 3.08, 3.09, 3.12, AND 10.3 OF THE CITY CHARTER BE AMENDED TO CLARIFY THE ETHICAL STANDARS IMPOSED UPON COUNCIL MEMBERS, CHANGE THE PROCEDURE FOR CONSIDERING COMPLAINTS AGAINST COUNCIL MEMBERS, INVESTIGATIONS INTO COMPLAINTS, REMOVAL FROM OFFICE FOR MEMBERS OF THE CITY COUNCIL AND FILLING VACANCIES ON THE CITY COUNCIL?"

FOR _____

AGAINST _____

PROPOSITION II

SHALL SECTIONS 7.01, 7.02, 7.03, 7.04, 7.05, AND 7.06 OF THE CITY CHARTER BE AMENDED TO CHANGE THE STANDARDS AND PROCEDURES FOR RECALL PETITIONS AGAINST MEMBERS OF THE CITY COUNCILL, FOR INITIATIVES AND FOR REFERENDUMS?

This proposition would amend the designated sections to read as follows:

Sec. 7.01. - Powers.

A. *General*. The people of the City of Windcrest reserve the power to direct legislation by initiative, to reject any legislation enacted by the City Council by referendum, and to recall the Mayor and any or all members of the City Council. However, such power shall not extend to the granting of franchises, budget, or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates, and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to initiative as provided by state statute or common law. The powers of initiative and referendum are limited to legislative acts.

The Council is authorized to conduct non-binding elections. With the exception of submitting a recall petition as a ballot measure, nothing in this Article should be construed as preventing the City Council from having the authority to submit an ordinance, the repeal of an ordinance, or any other legislative matter to the citizens of Windcrest to consider as a measure at an election.

B. *Initiative***.** The registered voters of the City shall have power to direct legislation by the passage of ordinances through initiative, subject to the limitations set forth in Section 7.01(A).

C. *Referendum*. The registered voters of the City shall have power to require reconsideration of any adopted ordinance, subject to the limitations set forth in Section 7.01(A).

D. *Recall*. The registered voters of the City shall have the power to petition for recall of the Mayor or any Council Member.

Sec. 7.02. - Commencement of Petition; Petitioners Committee; Affidavit

Any three (3) qualified voters may commence initiative, referendum, or recall proceedings by filing with the City Secretary an affidavit stating that they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form as provided in this Charter and under Texas law, stating their names, mailing addresses, physical addresses, e-mail addresses, phone numbers, and specifying the mailing address to which all notices to the petitioners committee are to be sent. Such affidavit shall set out in full the proposed initiative ordinance, or citing the ordinances sought to be reconsidered by referendum, or the name of the Mayor or City Council member to be recalled.

Sec. 7.03. - Petition Form, Content, and Process

All papers and pages of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature on the petition shall comply with the provisions of Section 277.002, Validity of Petition Signatures, Texas Election Code.

No signature on said petition shall have been affixed prior to the filing of the affidavit of petitioners committee.

Petitions shall be returned to the Office of the City Secretary for filing within ninety (90) calendar days after filing of the affidavit of petitioners committee.

To the extent authorized by state law, petitions shall be accompanied by a verification for signatures for the petition and shall be verified by oath in the following form to be affixed on the bottom of each page of the petitions:

"Date: _____, 20_____

STATE OF TEXAS

COUNTY OF BEXAR

I, _____, being first duly sworn, and under the penalty of perjury, on oath depose and say that I am one of the signers of the above petition, and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person it purports to be.

Signature

Sworn and subscribed before me this day of 20__ .

_____

NOTARY PUBLIC, STATE OF TEXAS

My commission expires:_____"

Noncompliance with the verification shall not be grounds to invalidate the petition but may subject the petitioners committee or the affiant to other disciplinary measures.

Sec. 7.04. - Recall Petition

The residents of the City reserve the power to recall the Mayor and any or all members of the City Council. Before the question of a recall shall be submitted to the registered voters of the City, a petition demanding such question to be so submitted shall first be filed with the City Secretary's Office. Said petition must be signed by registered voters in the City in a number not less than twenty-five percent (25%) of the number of voters who cast a vote in the last Mayoral election in the City of Windcrest.

Recall petitions shall contain the name of the City Official who is the subject of recall. The petition shall be addressed to the City Council of the City and shall state distinctly and specifically the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the official subject to the recall petition that warrant the reason for the recall. Such

statement shall give the individual sought to be removed notice of the matter(s) and thing(s) with which the individual's recall is predicated. If there be more than one (1) reason, said petition shall distinctly and specifically state each reason upon which such petition for removal is predicated and shall distinctly and specifically state the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the individual that warrant the recall as to give the individual sought to be removed notice of the matter(s) and thing(s) on which the recall is predicated.

The statement of charges or grounds for recall shall **be least** two hundred fifty (250) but **no more** than four hundred (400) words. The petition bearers or carriers shall give each potential signer of the recall petition time to read the statement of charges before signing the petition. Within five (5) working days of receipt of a recall petition, or as soon as practicable, the City Secretary shall serve the City official who is subject of the recall a copy of the recall petition charges or allegations. Within five (5) working days after the City official is served a copy of the recall petition charges or allegations, the City official may file a written response with the City Secretary's Office.

Sec. 7.04.1. - Basis for Recall

Specific acts of malfeasance, incompetence, moral turpitude, or ethical failures, as defined by Texas law, conviction of violations of criminal law, excluding Class C misdemeanors and traffic violations, or failure to comply with the provisions of this Charter constitute basis for a recall. The basis for recall shall be specifically stated in the petition and be in sufficient detail so as to allow the official who is the subject of the recall petition to be informed as to the allegations against him or her. A separate petition is required for the recall of each elected official.

Sec. 7.04.2. - Two-Year Recall Limitation and Consecutive Term Exception

Elected officials shall not be subject to recall during the first six (6) months of that official's elected term of office. The final six (6) months of an elected official's term of office shall be exempt from recall.

Sec. 7.04.3. - Review of Petition

The recall petition, with the required number of signatures of registered voters of the City, and all papers and documents supporting the allegations in the petition, shall be filed with the City Secretary. The City Secretary and the City Attorney shall review the petition for recall to determine that it meets the requirements of this Charter and state law. The City Attorney shall certify the petition to the City Secretary that the petition meets the minimum legal requirements under this Charter and state law or shall list any non-compliance contained within the petition. The City Attorney's review shall assume, for purposes of certification, the grounds for recall stated in the petition are true and the City Attorney shall not review the factual merits of the grounds for recall. The City Secretary shall certify the petition, or return a petition found not in compliance with this Charter to the petitioners committee with the written findings of noncompliance clearly stated within ten (10) calendar days of submission. The petitioners committee may correct errors or omissions in the petition and may resubmit the corrected petition to the City Secretary within ten (10) calendar days. The City Secretary shall provide one copy of the certified petition to the petitioners committee and one to the City Council.

Sec. 7.04.4. - Procedure After Certification

Upon certification of the petition, the elected official made the subject of the petition may resign. If the official chooses not to resign, the official may, within five (5) working days of the petition's certification, request, in writing to the City Secretary, a special meeting. In this event, the City Council shall order such special meeting to be held, **no more** than thirty (30) days and **no less** than fifteen (15) days before early voting.

At any special meeting held under this Section, the individual whose removal is sought shall have a thirty (30) minute period to state their response to the recall petition. There shall be no public participation in the special meeting and no other items of business shall be a part of the special meeting.

This special meeting is not a trial. A separate special meeting must be allowed, if requested, for each elected official who is the subject of a recall petition. If, at the conclusion of the special meeting, the official who is the subject of the recall petition chooses not to resign, the City Council shall order a recall election for the next regular election date.

Sec. 7.04.5. - Recall Ballot

Ballots prepared and used in the recall election shall read as follows: "Shall _____ Be Removed From the Office of _____ By Recall?" The ballot shall also provide two (2) options, both printed on the ballot; one for removal by the term “YES”, the other against removal by the term “NO”. The City Secretary and the Election Judge shall count the ballots.

Sec. 7.04.6. - Results of a Recall Election

A simple majority vote shall decide the issue of recall. If less than a majority of the votes favor a recall, the elected official shall continue to serve. If a majority of votes are cast in favor of a recall, the City Council shall declare the position vacant, and ensure the filling of the vacancy in accordance with the provisions of this Charter. The recalled official is considered removed from the position and does not sit in any holdover capacity unless otherwise authorized by this Charter. An official who has been recalled may not be reappointed to any immediate vacancy.

Sec. 7.04.7. - Recall Resulting in Less Than a Quorum

Should multiple successful recall petitions reduce the number of serving City Council members to less than a quorum, the remaining City Council members, including the Mayor, shall have the authority to continue to conduct City business, including filling vacancies and scheduling elections. In the event the entire City Council, including the Mayor, is recalled, the recalled officials shall remain in a holdover position for the singular and ministerial purpose of calling a special election consistent with state law. The calling of the special election shall occur at the first council meeting where an election may be called under state law.

Sec. 7.05. - Initiatives and Referendum.

A. General. Initiative or referendum may be initiated under this Charter by submitting a petition to the City Secretary stating that the purpose of the petition is to initiate an ordinance, or, to request repeal of an ordinance passed by the City Council.

The petition must contain the verified signatures in a number of at least twenty percent (20%) of the number of voters who cast a vote in the last Mayoral election in the City of Windcrest.

B. Initiative. In addition to the required number of signatures, a petition for initiative shall have a copy attached of the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. Each page of the petition shall have, at the top of the page, the full descriptive caption of the proposed ordinance. No ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within four (4) years from the date of such election. Any ordinance adopted by initiative shall not be subject to repeal or substantial modification by action of the Council for a period of four (4) years from the date of the election, except by referendum election called by the Council or by referendum petition submitted by registered voters in accordance with this Charter. Notwithstanding the four (4) year prohibition, the City Council may make required modifications of an ordinance passed by initiative if such modifications are required to bring the ordinance in conformity with state or federal law.

C. Referendum. In addition to the required number of signatures, a petition for referendum shall have the specific ordinance to be repealed. A petition for referendum on the same subject matter may only be submitted once every four (4) years. Any ordinance repealed by referendum shall not be reinstituted in whole or substantial part by action of the Council for a period of four (4) years from the date of the election, except by initiative election called by the Council or by initiative petition submitted by registered voters in accordance with this Charter.

Sec. 7.05.1. - Form and Review of the Petition

The petition for initiative or referendum shall be readable, understandable, and clearly state the action being requested. Within ten (10) calendar days of the filing of the petition, the City Secretary and the City Attorney shall determine if the petition meets the requirements set forth in this Charter. If so, the City Secretary shall submit it to the City Council at the next regularly scheduled meeting. If the petition fails to meet the requirements of this Charter, the City Secretary shall, within ten (10) calendar days, return it to the petitioners committee stating reasons for its return. Insufficiencies may be corrected within ten (10) working days of notice.

Sec. 7.05.2. - Submission to the Voters

A. Initiative. Upon presentation to the City Council, it shall become the duty of the City Council, within forty-five (45) calendar days after the date the petition is finally determined sufficient, to pass and adopt such ordinance without alteration as to meaning or effect, or to call for an election, to be held on the soonest date allowed under the Texas Election Code. If a majority of the registered electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon the canvassing of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

B. Referendum. Upon presentation to the City Council, it shall become the duty of the City Council, within forty-five (45) calendar days after the date the petition is finally determined sufficient, to repeal such ordinance or to call for an election, to be held on the soonest date allowed under the Texas Election Code.

Sec. 7.05.3. - Ballot Form and Results

Ordinances submitted to the electorate in accordance with the initiative and referendum provisions of this Charter shall be submitted on a ballot which contains the substance of the ordinance to be adopted or repealed. More than one ordinance may be placed on a single ballot and be voted upon at the same election. The vote shall consist of a simple "for" or "against" each proposed ordinance. Any measure receiving a majority of the votes in favor shall be deemed to have passed. Any measure which is not approved by a majority of the votes shall be deemed defeated. If conflicting measures are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Sec. 7.06. - Non-Binding Elections

The City Council, upon its own motion and by the affirmative vote of a majority of the full membership of the City Council, may submit to popular vote at an election for adoption or rejection any proposed ordinance, resolution, or measure, or may submit for repeal any existing ordinance, resolution, or measure. The results of said election shall not have a binding effect on the City Council.

The proposition on the ballot shall state as follows:

PROPOSITION II

"SHALL SECTIONS 7.01, 7.02, 7.03, 7.04, 7.05, AND 7.06 OF THE CITY CHARTER BE AMENDED TO CHANGE THE STANDARDS AND PROCEDURES FOR RECALL PETITIONS AGAINST MEMBERS OF THE CITY COUNCILL, FOR INITIATIVES AND FOR REFERENDUMS?"

FOR _____

AGAINST _____

PROPOSITION III

SHALL SECTIONS 3.02 AND 5.02 OF THE CITY CHARTER BE AMENDED TO CHANGE THE AUTHORITY OF THE CITY MANAGER AND MAYOR, REMOVING THE MAYOR AS AN OPERATING OFFICER, AND DESIGNATING THE CITY COUNCIL AS THE DIRECT SUPERVISOR OF THE CITY MANAGER?

This proposition would amend the designated sections to read as follows:

Sec. 3.02. - Mayor

The person elected Mayor shall be the ceremonial head of the City government. The Mayor shall preside over all meetings of the City Council. The Mayor may debate and discuss any matters before the City Council and shall vote only to break a tie vote of the City Council. The Mayor shall be recognized as the head of the City government for all emergency management purposes, and by the governor for purposes of military law.

Sec. 5.02. - City Manager

5.02.1. *Qualifications, appointment.* The City Council shall appoint and may remove the City Manager upon the affirmative vote of a majority of the City Council and shall supervise the City Manager by majority vote. The City Manager shall be chosen and compensated solely on the basis of experience, education, training, ability, and performance. The City Council shall require the City Manager to reside within a reasonable distance as determined by the City Council. The City Council shall establish compensation for the City Manager and review performance on an annual basis. No member of the City Council shall, during the term of office for which they are elected or for one (1) year after leaving office, be appointed City Manager. The City Council shall perform a review of the City Manager's performance at least annually, but no more than twice in any fiscal year.

5.02.2. *Direction and supervision of employees, department heads.* The City Manager shall be responsible to the City Council for the proper administration of all the affairs and business of the City. Except for the purpose of inquiry, the City Council and its members shall deal with the City staff through the City Manager, and neither the City Council nor any member not having administrative or executive functions under this Charter shall give orders to any of the subordinates of the City Manager either publicly or privately.

5.02.3. *Specific powers and duties.* The City Manager shall be required to:

(a) Ensure the enforcement of all state laws and City ordinances;

(b) Hire, suspend, or remove any employee of the City, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. The City Manager may authorize any employee who is subject to the City Manager's direction and supervision to exercise these powers with respect to subordinates in that employee's department, office or agency;

(c) Provide employees with an annual written performance review;

(d) Attend all City Council meetings except when excused. May participate in all discussions but may not vote;

(e) Prepare and submit the proposed annual budget and be responsible for the administration of the adopted budget;

(f) Keep the City Council advised of the financial condition and needs of the City and make such recommendations as seem desirable;

(g) Prepare and submit to the City Council at the end of each fiscal year a complete report on the finances and administrative activities of the City for such preceding fiscal year;

(h) Make such other reports as the City Council may require concerning the operations of the City;

(i) Meet with, discuss with, confer with, and advise the Mayor and/or any member of the City Council regarding the business of the City;

(j) May delegate to City employees nondiscretionary ministerial and administrative tasks to carry out his duties;

(k) Shall direct and supervise the administration of all departments, offices, and agencies of the City, except as otherwise provided by this Charter or by law;

(l) Approve contracts and budget line items not to exceed $25,000.00, unless authorized by the City Council;

(m) Shall have the authority to execute on behalf of the City, standard form documents including, but not limited to, deeds, releases of liens, rental agreements, easements, right-of-way agreements, joint use agreements, and other similar documents as authorized by the City Council;

(n) Perform such other duties as may be prescribed in this Charter or required by the City Council.

5.02.4. *Acting City Manager.* The City Manager may designate an officer of the City to serve as acting City Manager when the City Manager is temporarily absent or on leave, subject to the approval of the City Council. If the City Manager is unable to appoint an officer to serve as acting City Manager, the City Council may designate a qualified person to perform the duties of the office of City Manager when the office is vacant or during the City Manager's extended absence or disability and may set the compensation paid to such person during such time. The City Council may revoke such designation at any time and appoint another individual, including an employee of the City, to serve until the City Manager shall return or his disability shall cease.

The proposition on the ballot shall state as follows:

PROPOSITION III

"SHALL SECTIONS 3.02 AND 5.02 OF THE CITY CHARTER BE AMENDED TO CHANGE THE AUTHORITY OF THE CITY MANAGER AND MAYOR, REMOVING THE MAYOR AS AN OPERATING OFFICER, AND DESIGNATING THE CITY COUNCIL AS THE DIRECT SUPERVISOR OF THE CITY MANAGER?"

FOR _____

AGAINST _____

PROPOSITION IV

SHALL SECTIONS 3.01, 3.03, 3.05, AND 3.10 OF THE CITY CHARTER BE AMENDED TO DESIGNATE PLACE POSITIONS FOR MEMBERS OF THE CITY COUNCIL, ADJUST THE AUTHORITY OF THE COUNCIL OVER THE CITY MANAGER AND DEPARTMENT HEADS, AND CLARIFYING QUORUM REQUIREMENTS.

This proposition shall amend the designated sections to read as follows:

Sec. 3.01. - City Council [Composition]

The City Council shall be comprised of a Mayor and five (5) City Council members. The council member positions shall be labeled as Place 1, Place 2, Place 3, Place 4, and Place 5.

Sec. 3.03. - Powers of the City Council

The City shall have the power of local self-government to the fullest extent permitted by law. All powers of the City and the determination of all matters of policy shall be vested in the City Council. Except where in conflict with and otherwise expressly provided by this Charter, the City Council shall have all powers authorized to be exercised by the City Council in accordance with the laws of the State of Texas. Among the exclusive powers that may be exercised by the City Council, the following are hereby enumerated for greater certainty, but are not intended as limitations:

(1) Appoint and remove the City Manager, and other such city officers as designed by this Charter;

(2) Establish other administrative departments;

(3) Establish the City's organizational chart and the number and position of employees;

(4) Adopt the City budget;

(5) Authorize the issuance of bonds by a bond ordinance and other debts allowed by law;

(6) Hear complaints of nonfeasance, malfeasance, and misfeasance, and inquire into the conduct of any office, department, or agency of the City and make investigations as to municipal affairs. For this purpose, the City Council shall have the power to administer oaths, subpoena, witnesses, and to compel the production of books, papers, and other evidence material to the inquiry. The City Council shall provide, by ordinance, penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence, and shall have the power to punish any such contempt in the manner provided by the ordinance;

(7) Appoint all commissions, boards, committees, task forces, and/or appointed groups to assist the City Council in the performance of its duties and responsibilities;

(8) Set and fix the salaries and compensation for the non-elective City officers and employees;

(9) Adopt and modify the zoning plan and the building code of the City;

(10) Compromise and settle any and all claims and lawsuits of every kind and character in favor or against the City;

(11) Adopt plats;

(12) Adopt and amend the Comprehensive Plan;

(13) Adopt parliamentary procedures and amend such rules as necessary for the orderly operation of government; and

(14) Adopt and modify the official map of the City;

(15) Determine and adopt policies of the City;

(16) Adopt and impose taxes;

(17) The City shall have all the powers granted to cities by other state, federal and local law together with all of the implied powers necessary to carry into execution those powers and those express and implied powers necessary for the government, interests, health, welfare and good order of the City and its inhabitants.

Sec. 3.05. - Terms of Office

The Mayor's term of office shall be for a period of two (2) years. The five (5) City Council members shall have a term of two (2) years each. At an election held on a uniform election date the Mayor, Council Place 4 and Council Place 5 shall be elected on odd numbered years, and Council Place 1, Council Place 2, and Council Place 3 shall be elected on even numbered years. Such designated terms do not prohibit special elections due to resignation, forfeiture of office, death or other vacancy requiring a special election under state law.

Sec. 3.10. - Meetings/Quorum

Regular meetings of the City Council shall be held at such times as may be prescribed from time to time by resolution of the City Council. Special meetings shall be called by the City Secretary upon the written request of the Mayor, the City Manager, or two (2) members of the City Council. Notice of any regular or special meetings of the City Council shall state the subject(s) to be considered at the meeting and shall be posted to the public in accordance with the laws of the State of Texas. A quorum shall consist of three (3) City Council members, unless otherwise provided for by state law. The City Council may sanction its members for misconduct and may compel the attendance of absent members. Items may be placed on the agenda by the request of the Mayor, the City Manager, or a City Council Member. Posted agendas will provide for "Citizens to be Heard" allowing citizens the opportunity to address the City Council on topics not on the agenda for no more than three (3) minutes. Citizens shall also have an opportunity to address the City Council during consideration of the posted agenda items for no more than six (6) minutes. These opportunities for citizens to speak will be included in the agendas of all Council Meetings, Special Council Meetings and Workshops. Citizens to be Heard shall be placed on the agenda after calling the meeting to order and invocation, if any. This rule applies to all boards and City commissions.

The proposition on the ballot shall state as follows:

PROPOSITION IV

"SHALL SECTIONS 3.01, 3.03, 3.05, AND 3.10 OF THE CITY CHARTER BE AMENDED TO DESIGNATE PLACE POSITIONS FOR MEMBERS OF THE CITY COUNCIL, ADJUST THE AUTHORITY OF THE COUNCIL OVER THE CITY MANAGER AND DEPARTMENT HEADS, AND CLARIFYING QUORUM REQUIREMENTS?"

FOR _____

AGAINST _____

PROPOSITION V

SHALL SECTION 3.07 OF THE CITY CHARTER BE AMENDED TO CLARIFY THE AUTHORITY TO INDEMNIFY PUBLIC OFFICERS

This proposition would amend the designated section to read as follows:

Sec. 3.07. - Compensation

Members of the City Council may receive compensation as set by City ordinance, except that City Council members shall be entitled to reimbursement of all necessary and reasonable expenses incurred in the performance of their official City Council duties, upon approval of such expenses by the City Council. The City Council may indemnify the Mayor or any City Council member consistent with the terms of this Charter and state law.

The proposition on the ballot shall state as follows:

PROPOSITION V

"SHALL SECTION 3.07 OF THE CITY CHARTER BE AMENDED TO CLARIFY THE AUTHORITY TO INDEMNIFY PUBLIC OFFICERS?"

FOR _____

AGAINST _____

PROPOSITION VI

SHALL THE CITY CHARTER BE AMENDED BY ADDING SECTION 3.085 TO IMPOSE EXPRESS PROHIBITIONS ON THE CITY COUNCIL AND MAYOR?

This proposition would amend City Charter by adding Section 3.085, which reads as follows:

Sec. 3.085 – Prohibitions

A. No member of City Council shall accept or admit liability or pay any claim for damages asserted against the City. City Council shall not accept or admit liability without first obtaining a written opinion from the City Attorney regarding the City's liability therein and only then upon a majority vote of the City Council.

B. No member of City Council shall be employed in or appointed to the positions of City Manager, City Attorney, or Department Head until three (3) years after the expiration of the term for which he/she was elected to the City Council and for any other compensated City position until one (1) year after the expiration of the term for which he/she was elected to the City Council unless approved by the City Council. This subsection shall not apply to a volunteer who receives a stipend that is the same as the stipend received by other similarly situated volunteers.

C. Except for the purpose of inquiries and investigations, unless otherwise provided in this Charter, the City Council as a whole and its individual members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor its individual members shall give orders to any such officer or employee, either publicly or privately.

D. Neither the City Council nor any of its members shall dictate to the City Manager the appointment of any person to office or employment. No member of City Council shall interfere with the City Manager in the performance of the duties of that office or prevent the City Manager from exercising the City Manager’s own judgment in the appointment of officers and employees whose employment, appointment, and supervision are reserved by this Charter for the City Manager. Except for the purpose of inquiry and investigations, the City Council and its members shall deal with the City Staff solely through the City Manager, and neither the City Council, as a body or any individual member, nor any individual not having administrative or executive functions under this Charter shall give orders to any of the subordinates of the City Manager, either publicly or privately.

E. It shall be unlawful for the Mayor or a Council Member to release any attorney-client privileged communication. The City Council as the governing body of the City solely holds and is entitled to the attorney client-privilege and it may only be waived by an affirmative vote of two-thirds ($^2/_3$) of the City Council.

The proposition on the ballot shall state as follows:

PROPOSITION VI

"SHALL THE CITY CHARTER BE AMENDED BY ADDING SECTION 3.085 TO IMPOSE EXPRESS PROHIBITIONS ON THE CITY COUNCIL AND MAYOR?"

FOR _____

AGAINST _____

PROPOSITION VII

SHALL SECTIONS 3.13 AND 3.14 OF THE CITY CHARTER BE AMENDED TO CHANGE THE PROCESS FOR PASSAGE OF ORDINANCES AND RESOLUTIONS AND PROVIDING FOR LIMITED PASSAGE OF SPECIFIC ORDINANCES UPON ONE READING?

The proposition on the ballot shall state as follows:

Sec. 3.13. - Procedures for Passage of Ordinances and Resolutions

A. *Passage.* Ordinances shall be introduced to the City Council only in written or printed form. The subject or subjects of all ordinances shall be clearly expressed in the title. Except as may otherwise be prescribed in this Charter, an ordinance shall not be finally passed at the meeting of the City Council at which it is first introduced, but it shall then be read, and the City Council will determine whether it shall be rejected or further considered at a subsequent meeting of the City Council. If rejected, no further action shall be required. Upon second reading, the ordinance may be adopted and enacted. The affirmative vote of three (3) or more members of the City Council is required to enact any ordinance, unless otherwise provided for by state law.

B. Ordinances passed upon one reading. Notwithstanding section 3.13(A) above, ordinances which may be passed upon first introduction include ordinances canvassing an election, ordinances calling an election, ordinances required by state law to approve a contract, annexation ordinances where such annexation first requires at least two (2) public hearings, ordinances setting a tax rate as required by state law, and ordinances adopting a budget if at least two (2) budget workshops or public hearings have occurred to discussed the pending budget. Any ordinance necessary to protect the public's peace, health, safety and general welfare may be passed as an emergency and become effective at once upon one (1) reading of the City Council, upon the approval of a majority vote of the City Council members that it is an emergency at said reading and the finding of an emergency shall be stated within the ordinance.

C. *Penalty and franchise ordinances.* Caption or title and penalties of every ordinance imposing any penalty, fine, or forfeiture shall, as soon as practical after passage thereof, be published one (1) time in the designated official newspaper of the City of Windcrest. All ordinances granting, confirming, extending, renewing, or amending a franchise shall be accepted in writing by the grantees and shall be published as otherwise provided in this Charter.

D. *Resolutions and ordinances.* The City Council shall evidence its official actions by written ordinances, resolutions, or oral motions. The style of all ordinances shall be: "Be it Ordained by the City Council of the City of Windcrest, Texas;" and the style of all resolutions shall be: "Be it Resolved by the City Council of the City of Windcrest." Every Ordinance shall be authenticated by the signature of the Mayor, or in the Mayor's absence

the Mayor Pro Tempore. The City Secretary shall attest all signatures. All ordinances and resolutions passed by the City Council shall become effective immediately from and after passage except where publication of a caption is required or where the ordinance, state law, or other provisions of this Charter provide otherwise, in which case the effective date shall be as prescribed in the ordinance.

Sec. 3.14. - Code of Ordinances

The City Council shall have the power to cause the ordinances of the City to be printed, in code form, and shall have the same arranged and digested, as often as the City Council may deem advisable, provided that failure to print the ordinance shall not affect its validity. The City Council shall have power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

The proposition on the ballot shall state as follows:

PROPOSITION VII

"SHALL SECTIONS 3.13 AND 3.14 OF THE CITY CHARTER BE AMENDED TO CHANGE THE PROCESS FOR PASSAGE OF ORDINANCES AND RESOLUTIONS AND PROVIDING FOR LIMITED PASSAGE OF SPECIFIC ORDINANCES UPON ONE READING?"

FOR _____

AGAINST _____

PROPOSITION VIII

SHALL SECTIONS 4.01, 4.02, 4.03, 4.07, AND 4.08 OF THE CITY CHARTER BE AMENDED TO CHANGE THE PROCEDURE FOR CITY ADMINISTRATION OF ELECTIONS?"

This proposition would amend the designated sections to read as follows:

Sec. 4.01. - City Elections

The general City election shall be held annually on a uniform election date in November, or the date nearest thereto as may be required by state law. Each qualified voter shall be entitled to vote. Candidates for each seat, including the Mayor, shall be elected at large.

Sec. 4.02. - Regulation of Elections

All City elections shall be conducted in accordance with the applicable provisions of the Texas Election Code and other state and federal law. The City Council shall appoint the clerks, judges and other election officials and shall provide for their compensation and other expenses incurred in holding said election. The City Council may adopt such permitted additional regulations for the conduct of individuals which is not inconsistent with state or federal law.

Sec. 4.03. - Special Elections

The City Council, by ordinance or resolution, may call such special elections as are authorized by state law or this Charter, fix the time and place of holding the same, and provide all means for holding such special elections. Every special election shall be called and held according to the state provisions governing elections.

Sec. 4.07. - Elections Determined by Plurality

A plurality vote for an elected office is that number which is greater than the number cast for any other candidate for the respective position. The candidate who receives a plurality vote shall be declared elected. In the event of a tie, a runoff election shall be held in accordance with the Texas Election Code.

Sec. 4.08. - Oath of Office

All City of Windcrest elected and appointed officers shall take and sign the Oath of Office prescribed for state elective and appointed offices, respectively, by the Constitution of the State of Texas and by the laws of this state. Every officer of the City shall, before entering upon the duties of the office, take and subscribe to the oaths required by state law, filed and kept in the office of the City Secretary.

The proposition on the ballot shall state as follows:

PROPOSITION VIII

"SHALL SECTIONS 4.01, 4.02, 4.03, 4.07, AND 4.08 OF THE CITY CHARTER BE AMENDED TO CHANGE THE PROCEDURE FOR CITY ADMINISTRATION OF ELECTIONS?"

FOR _____

AGAINST _____

PROPOSITION IX

SHALL SECTION 5.03 OF THE CITY CHARTER BE AMENDED TO CLARIFY THE AUTHORITY OF THE CITY ATTORNEY AND PROVIDE THE PROCEDURE FOR REMOVAL OF THE CITY ATTORNEY?

This proposition would amend the designated section to read as follows:

Sec. 5.03. - City Attorney

5.03.1. *Appointment.* There shall be a department and office of City Attorney. The City Council shall appoint a competent and licensed attorney who shall have not less than five (5) years' experience practicing municipal law in Texas. The City Council may retain special counsel or appoint Assistant City Attorneys at any time it deems appropriate and necessary. The City Attorney can be removed with or without cause by an affirmative vote of three members of the City Council. Unless a legal conflict of interest exists, all legal counsel of the City shall be responsible for reporting information to the City Attorney regarding any representation of the City. Pursuant to state law, the City Attorney is the designated attorney for the state in municipal court and any designated prosecutors hold such positions subject to the City Attorney's direction. The City Attorney may designate such special counsel and special prosecutors as he/she deems appropriate to properly represent the interest of the City, or the state in municipal court. All City Attorney designations are subject to funding provided for in the budget or by the City Council. The City Attorney may be appointed or terminated by an affirmative vote of three Council Members at a properly called public meeting.

The proposition on the ballot shall state as follows:

PROPOSITION IX

"SHALL SECTION 5.03 OF THE CITY CHARTER BE AMENDED TO CLARIFY THE AUTHORITY OF THE CITY ATTORNEY AND PROVIDE THE PROCEDURE FOR REMOVAL OF THE CITY ATTORNEY?"

FOR _____

AGAINST _____

PROPOSITION X

SHALL SECTIONS 5.06 OF THE CITY CHARTER BE AMENDED CHANGE THE AUTHORITY OF THE OFFICE OF CITY SECRETARY AND CHANGE THE PROCEDURE FOR APPOINTMENT?

This proposition would amend the designated section to read as follows:

Sec. 5.06. - City Secretary

5.06.1. *Appointment and compensation.* The City Council shall appoint the City Secretary. The City Secretary shall receive compensation as may be fixed by the City Council. If the City Secretary is temporarily unable to perform appointed duties, the City Manager or City Council may designate an alternate.

5.06.2. *Duties.* The City Secretary shall:

(a) Give notice of City Council meetings;

(b) Attend all City Council meetings and keep accurate records of all actions taken by the City Council;

(c) Maintain the official records and files of the City;

(d) Administer oaths required by law;

(e) Attest contracts, assessment certificates, ordinance resolutions, and other legal instruments when executed by the authorized officers of the City;

(f) Serve as the election official for all City elections;

(g) Hold and maintain the City seal and affix it to all appropriate documents as required;

(h) Supervise the administrative staff as directed by City Council;

(i) Serve as Assistant Court Administrator;

(j) Perform such other duties as may be required by the City Manager, this Charter, or the laws of the State of Texas.

The proposition on the ballot shall state as follows:

PROPOSITION X

"SHALL SECTIONS 5.06 OF THE CITY CHARTER BE AMENDED CHANGE THE AUTHORITY OF THE OFFICE OF CITY SECRETARY AND CHANGE THE PROCEDURE FOR APPOINTMENT?"

FOR _____

AGAINST _____

PROPOSITION XI

SHALL SECTION 5.07.3 OF THE CITY CHARTER BE AMENDED TO CLARIFY APPOINTMENT AND DUTIES OF THE MUNICIPAL COURT CLERK?

This proposition would amend the designated sections to read as follows:

> 5.07.3. *Clerk of the Court.* The Clerk of the Municipal Court of Record shall be appointed as provided for by state law. The City Manager may appoint such deputy clerks as such become necessary. The Clerk of the Court and any deputies appointed by the City Manager shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court as necessary and required by law, and do and perform any and all acts usual and necessary to be performed by clerks and deputy clerks of municipal courts of the State of Texas. The clerk and other court personnel perform their duties under the direction and control of the presiding judge.

The proposition on the ballot shall state as follows:

PROPOSITION XI

"SHALL SECTION 5.07.3 OF THE CITY CHARTER BE AMENDED TO CLARIFY APPOINTMENT AND DUTIES OF THE MUNICIPAL COURT CLERK?"

FOR _____

AGAINST _____

PROPOSITION XII

SHALL SECTION 8.05 OF THE CITY CHARTER BE AMENDED TO CLARIFY THE AUTHORITY TO GRANT AND REGULATE FRANCHISES AND PERMITS UNDER THE TEXAS TRANSPORTATION CODE?

This proposition would amend the designated section to read as follows:

Sec. 8.05. - Power to grant franchises.

The Council shall have the power, subject to the provisions hereof, by ordinance to confer upon any person, firm, corporation, or other legal entity, the franchise or right to use the public property of the City for the purpose of furnishing to the public any general public service or benefit, including, but not limited to, heat, light, power, telephone service, transportation, or other telecommunication providers for compensation or hire. The City shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City. A grant cannot be exclusive of other franchises, nor granted for an indeterminate term.

The Council shall have the power to confer upon any person, firm, corporation, or other legal entity a franchise, permit, or license authorized by Texas Transportation Code §316.021 or any other state or federal law for the purposes authorized by such laws.

The proposition on the ballot shall state as follows:

PROPOSITION XII

"SHALL SECTION 8.05 OF THE CITY CHARTER BE AMENDED TO CLARIFY THE AUTHORITY TO GRANT AND REGULATE FRANCHISES AND PERMITS UNDER THE TEXAS TRANSPORTATION CODE?"

FOR _____

AGAINST _____

PROPOSITION XIII

SHALL SECTIONS 10.01 AND 10.02 OF THE CITY CHARTER BE AMENDED TO CHANGE THE LEGAL PROCESS PROCEDURE, LEGAL NOTICE PROVISIONS, CHARTER CONSTRUCTION AND TO CONFORM THE SECTIONS TO CURRENT STATE LAW?

This proposition would amend the designated sections to read as follows:

Sec. 10.1. - General legal considerations.

10.01.1. *Property not subject to garnishment or execution.* No property owned or held by the City shall be subject to garnishment or execution of any kind or nature except as provided by state law.

10.01.2. *Municipal acquisition of property.* The City shall have the power to acquire property within or without its boundaries, subject to limitations within this Charter or state law, for any public purpose, by purchase, gift, devise or lease.

10.01.3. *Indemnification of officers, employees and officials.* The City Council shall, by appropriate ordinance, provide for the indemnification and legal defense of the officers and employees of the City, including the City Council, Boards, Commissions, Committees, and volunteers approved by the Mayor (or City Manager) against any cost, loss, or expense, including court costs and attorney's fees, to the extent allowed by state law, arising out of any action based upon alleged negligent act or acts of such person during the discharge of that person's duties, committed within the scope of such person's services. Indemnification under this Article shall not be provided for knowing, willful, or intentional violations of any statute or ordinance.

10.1.4. *Bond or security not required.* It shall not be necessary in any action, suit or proceeding in which the City is a party, for any bond or other security to be executed on behalf of the City. Any action will proceed as if such bond or security had been given. The absence of such bond or security shall not negate the liability of the City established in such proceedings, and in any finding against the City, it shall be liable as if such security had been given.

10.01.5 *Construction of the Charter*. The Charter shall not be construed as a mere grant of enumerated powers but shall be construed as a general grant of power and as a limitation of power on the government of the City of Windcrest in the same manner as the Constitution of Texas is construed as a limitation on the powers of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article XI, Section 5 of the Constitution of Texas, which it would be competent for the people of the City of Windcrest to expressly grant to the City, shall be construed to be granted to the City by this Charter.

10.01.6. *Severability.* If any chapter, article, section, paragraph, sentence, clause or phrase of this Charter shall be held unconstitutional or invalid for any reason by a court of competent jurisdiction, such holding shall not affect the remainder of the Charter nor the context in which such provision so held invalid may appear.

10.01.7 *Judicial Notice*. This Charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places provided that the City Secretary certifies the most current City Charter with any amendments.

10.01.8 *Service of Process Against the City*. All legal process against the City shall be served upon the City Manager.

Sec. 10.02. - Claims Against the City

10.02.1. *Notice of claim.* No action may be filed in any court of competent jurisdiction seeking damages for personal injury or property loss or damage based upon the alleged liability of the City of Windcrest unless and until notice of such alleged loss or damage claimed is first provided to the City Secretary. Such claim must be filed within 180 calendar days of the alleged occurrence of loss or damage. Such notice shall be in writing and shall provide a sworn statement of alleged facts, the date and location of the alleged facts asserted as a basis for such liability, the nature and extent of any and all damage or injury asserted by the claimant, the basis for the alleged liability of the City, and shall demand compensation in a specific dollar amount.

10.02.2. *Thirty (30) day waiting period.* No action may be filed in a court of competent jurisdiction prior to the expiration of thirty (30) calendar days from the date notice of the claim was provided. During this thirty (30) calendar day period, the City may deny the claim, ask for additional information, or make an offer of settlement on the claim. Offers of settlement may not be made without the concurring opinion of the City Attorney that the facts establish the liability of the City, and that the amount of the offer is supported by the evidence available. Negotiations and discussions toward settlement of the claim may continue beyond the thirty (30) calendar day period.

10.02.3. *Nonwaiver of rights.* Nothing contained in this Article shall be construed to mean that the City of Windcrest waives any rights, privileges, defenses, or immunities in tort actions which are provided in common law, the Texas Constitution, the U.S. Constitution or the general laws of the State of Texas.

10.02.4 *Power to Settle Claims*. The City Council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character, in favor of, or against, the City, including suits by the City to recover delinquent taxes after consulting with the City Attorney

The proposition on the ballot shall state as follows:

PROPOSITION XIII

"SHALL SECTIONS 10.01 AND 10.02 OF THE CITY CHARTER BE AMENDED TO CHANGE THE LEGAL PROCESS PROCEDURE, LEGAL NOTICE PROVISIONS, CHARTER CONSTRUCTION AND TO CONFORM THE SECTIONS TO CURRENT STATE LAW?"

FOR _____

AGAINST _____

PROPOSITION XIV

SHALL SECTIONS 1.03, 1.04 AND 1.05 OF THE CITY CHARTER BE AMENDED TO CHANGE THE POWER OF THE CITY TO ESTABLISH, ALTER, EXPAND, AND CONTRACT IT BOUNDARIES?

This proposition would amend the designated sections to read as follows:

Sec. 1.03. - Boundaries

The boundaries and limits of the City of Windcrest shall be those established and described in ordinances duly passed by the City Council of the City of Windcrest in accordance with state law. The City shall prepare a map that shows the boundaries of the municipality. A copy of the map shall be kept in the office of the City Secretary. If the City annexes or disannexed territory, then the map shall be immediately corrected to reflect the new territory. Further, the map must reflect all shared territory with another local government, territory under a development agreement which includes a territory, and all extraterritorial jurisdictions of the City.

Sec. 1.04. - Adjustment of Boundaries (Annexation)

1. The boundaries and limits of the City may be enlarged and extended by the acquisition of additional territory, irrespective of size and configuration, by the methods hereinafter set forth. The City may also reduce its boundaries by the methods contained hereinafter.

2. The City Council shall have the power by ordinance to fix the boundary limits of the City and to provide for the alteration, retraction and extension of said boundary limits and the acquisition of additional territory, lying adjacent to the City, in any manner provided by law. Such alteration includes the ability to exchange territory with another municipality or enter into any agreement for territory authorized by law.

a. Before the City may disannex an area, acquire an area or extend its extraterritorial jurisdiction, the City Manager must present a written report on the financial impact of the proposed acquisition or extension and the adoption of any proposed service plan to the City Council.

b. Action to acquire an area or extend the City's extraterritorial jurisdiction shall be initiated by ordinance as required under state law.

3. When any additional territory has been so acquired, the same shall be part of the City of Windcrest and the property situated therein shall bear its pro rata part of the taxes levied by the City. The inhabitants thereof shall be entitled to all the rights and privileges of other citizens of the City and shall be bound by the acts, ordinances, resolutions and regulations of the City.

4. The extraterritorial jurisdiction of the boundaries may be altered by the City Council as provided by state law.

Sec. 1.05. - Contraction of Boundaries (Disannexation)

Notwithstanding Section 1.04, when the City Council determines there exists within the corporate limits of the City a territory not suitable or necessary for City purposes, the City Council may disannex the territory as part of the City by ordinance after notice, a public hearing, and vote of the City Council of Windcrest.

The proposition on the ballot shall state as follows:

PROPOSITION XIV

"SHALL SECTIONS 1.03, 1.04 AND 1.05 OF THE CITY CHARTER BE AMENDED TO CHANGE THE POWER OF THE CITY TO ESTABLISH, ALTER, EXPAND, AND CONTRACT IT BOUNDARIES?"

FOR _____

AGAINST _____

PROPOSITION XV

SHALL SECTIONS 10.4 AND 11.01 OF THE CITY CHARTER BE AMENDED TO CLARIFY THE PROCEDURES AND CHANGE THE TRANSITION PROVISIONS UPON PASSAGE OF CHARTER AMENDMENTS?

This proposition would amend the designated sections to read as follows:

Sec. 11.01. - Amendment of this Charter

Amendments to this Charter shall be framed, proposed, and adopted in the manner provided by Texas Local Government Code as now or hereafter amended. Nothing in this section prohibits the City Council from forming a Charter Review Committee at any time or from submitting any amendments to the Charter to election on its own initiative at any time in compliance with state law.

Sec. 10.04. - Transitional Provisions Upon Passage of Charter Amendments

10.4.1. *Validation of ordinances.* All ordinances, resolutions, rules, contracts, and regulations of the City heretofore ordained, passed, adopted, or enacted, that are in force at the time this Charter becomes effective, and which are not in conflict with such Charter, shall remain in full force until altered, amended, or repealed after such Charter takes effect.

10.4.2. *City elections.* The Mayor and Council Members shall be elected for a term of two years according to the election cycle currently established. The Mayor's term of office shall be for a period of two (2) years. The five (5) City Council members shall have a term of two (2) years each. At an election held on a uniform election date the Mayor and Council Members shall be elected for a term of two years according to the election cycle currently established (i.e. November of even numbered years the Council Members for Places 1, 2, and 3 shall be elected. In November of odd numbered years the Office of Mayor and Council Members for Places 4 and 5 shall be elected). Such designated terms do not prohibit special elections due to resignation, forfeiture of office, death or other vacancy requiring a special election under state law.

10.4.3. *Existing officials and employees retain positions.* Nothing in this Charter except as specifically provided herein, shall affect or impair the rights and privileges of persons who are City officers or employees at the time of its adoption. All persons holding elected offices that are retained under this Charter will continue to fill those offices for the terms to which they were elected.

10.4.4. *Existing City business continue.* All rights, claims, actions, orders, contracts, franchises, and legal or administrative proceedings in existence at the time of the adoption of this Charter shall continue until completion. All renewals or new rights arising after the adoption of the Charter shall be conducted pursuant to the Charter.

The proposition on the ballot shall state as follows:

PROPOSITION XV

"SHALL SECTIONS 10.4 AND 11.01 OF THE CITY CHARTER BE AMENDED TO CLARIFY THE PROCEDURES AND CHANGE THE TRANSITION PROVISIONS UPON PASSAGE OF CHARTER AMENDMENTS?"

FOR _____

AGAINST _____