



NOTICE OF MEETING
GOVERNING BODY OF MARBLE FALLS, TEXAS
Tuesday, August 2, 2016 – 6:00 pm

A quorum of the Marble Falls Economic Development Corporation
and the Planning & Zoning Commission may be present

Notice is hereby given that on the 2nd day of August, 2016 the Marble Falls City Council will meet in regular session at 6:00 pm in the City Hall Council Chambers located at 800 3rd Street, Marble Falls, Texas, at which time the following subjects will be discussed:

1. **CALL TO ORDER AND ANNOUNCE QUORUM IS PRESENT**
2. **INVOCATION**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES AND TO THE TEXAS FLAG.** *“Honor the Texas Flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.”*
4. **UPDATES, PRESENTATIONS AND RECOGNITIONS**
 - Update from the Marble Falls Housing Authority. **Mark Mayfield, Director**
 - Update from Northland Communications. **Larson Lloyd, General Manager**
 - Presentation of 2015-2016 Comprehensive Plan Advisory Committee Service Awards. **Mayor John Packer**
5. **CITIZEN COMMENTS.** *This is an opportunity for citizens to address the City Council concerning an issue of community interest that is not on the agenda. Comments on a specific agenda item must be made when the agenda item comes before the Council. The Mayor may place a time limit on all comments. Any deliberation of an issue raised during Citizen Comments is limited to a proposal to place it on the agenda for a later meeting.*
6. **CONSENT AGENDA.** *The items listed are considered to be routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which case the item will be removed from the Consent Agenda prior to a motion and vote. The item will be considered in its normal sequence on the Regular Agenda.*
 - (a) Approval of the [minutes](#) of the July 19, 2016 regular meeting. **Christina McDonald, City Secretary**

- (b) Approval of a [Contract for Election Services](#) between the City of Marble Falls and the Burnet County Elections Administrator for elections from July 2016 to August 2017. **Christina McDonald, City Secretary**
- (c) Approval of a [Joint Election Agreement](#) with Burnet County for elections from July 2016 to August 2017. **Christina McDonald, City Secretary**
- (d) Approval of [Ordinance 2016-O-08B](#) ordering a Special Election on November 8, 2016 to submit to the voters proposed amendments to the City of Marble Falls Charter. **Christina McDonald, City Secretary**

7. REGULAR AGENDA. *Council will individually consider and possibly take action on any or all of the following items:*

- (a) Discussion regarding [light pollution](#) and protection of the night sky. **Mayor John Packer**
- (b) Public Hearing, Discussion and First Reading of [Ordinance 2016-O-08A](#) zoning for traffic and rate of speed on SH-71 in the city limits of the City of Marble Falls; defining speeding and fixing a penalty therefore; declaring what may be a sufficient complaint in prosecutions hereunder; with a saving clause repealing conflicting laws and declaring an emergency. **Eric Belaj, City Engineer**
- (c) Discussion and Action regarding approval of the design contract between the City of Marble Falls and S.D. Kallman, LP for [Phase 4 of the Water Treatment Plant Expansion](#) project. **Eric Belaj, City Engineer**
- (d) Discussion and Action on setting the [proposed tax rate for FY 2016/2017](#) and setting dates for public hearings if necessary. **Margie Cardenas, Finance Director**
- (e) Discussion and Possible Action regarding [Highway 281 traffic signals](#). **Mike Hodge, City Manager**

8. CITY MANAGER'S REPORT

- Presentation on water/wastewater rate increases and the City's financial health.

9. EXECUTIVE SESSION

CLOSE OPEN SESSION AND CONVENE EXECUTIVE SESSION Pursuant to §551.071 (Private Consultation between the Council and its Attorney), Pursuant to §551.087 (Deliberation Regarding Economic Development Negotiations), and Pursuant to §551.072 (Deliberation Regarding the Purchase, Exchange, Lease or Value of Real Property) of the Open Meetings Act. Tex. Gov't Code, Council will meet in Executive Session to discuss the following:

- Discussion regarding economic development projects associated with development of EDC owned and City owned property, including public right-of-way and easements.

10. RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ITEMS DISCUSSED IN EXECUTIVE SESSION.

11. ANNOUNCEMENTS AND FUTURE AGENDA ITEMS.

12. ADJOURNMENT.

“The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any matters listed on the agenda, as authorized by the Texas Government Code, including, but not limited to, Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development), 418.183 (Deliberations about Homeland Security Issues) and as authorized by the Texas Tax Code, including, but not limited to, Section 321.3022 (Sales Tax Information).”

In compliance with the Americans with Disabilities Act, the City of Marble Falls will provide for reasonable accommodations for persons attending City Council Meetings. To better serve you, requests should be received 24 hours prior to the meeting. Please contact Ms. Christina McDonald, City Secretary at (830) 693-3615.

Certificate of Posting

I, Christina McDonald, City Secretary for the City of Marble Falls, Texas, do certify that this Notice of Meeting was posting at City Hall, in a place readily accessible to the general public at all times, on the 28th day of July, 2016 at 10:30 am and remained so posted for at least 72 continuous hours preceding the scheduled time of said meeting.

/s/ Christina McDonald _____

Christina McDonald, TRMC
City Secretary

The agenda is also posted on the City's web site www.marblefallstx.gov

August 2, 2016

6. CONSENT AGENDA

- (a) Approval of the minutes of the July 19, 2016 regular meeting. ***Christina McDonald, City Secretary***
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Background information is attached as follows:

[July 19, 2016 regular meeting minutes](#)

STATE OF TEXAS
COUNTY OF BURNET
CITY OF MARBLE FALLS

On this the 19th day of July, 2016 the Council of the City of Marble Falls convened in regular session at 6:00 pm at the City Hall Council Chambers located at 800 Third Street, Marble Falls, Texas, with notice of meeting giving time, place, date, and subject having been posted as described in Chapter 551 of the Texas Government Code.

PRESENT:

John Packer	Mayor
Jane Marie Hurst	Mayor Pro-Tem
Craig Magerkurth	Councilmember
Ryan Nash	Councilmember
Reed Norman	Councilmember
Richard Westerman	Councilmember

ABSENT:

Rachel Austin-Cook	Councilmember
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STAFF:

Mike Hodge	City Manager
Caleb Kraenzel	Assistant City Manager
Patty Akers	City Attorney
Christina McDonald	City Secretary
Christian Fletcher	EDC Executive Director
Mike Ingalsbe	Building Official
Eric Belaj	City Engineer
Margie Cardenas	Finance Director
Mark Whitacre	Chief of Police
Russell Sander	Fire Chief
Chelsea Seiter-Weatherford	Planner

VISITORS: Glynis Smith (The Highlander), Andrew Friedman (SAMCO), Richard Lewis (Huber), Tom Martin (CIP Committee), Matt Smith (Hill Country Recycling), Mark Hodges (EDC Corporation)

1. **CALL TO ORDER AND ANNOUNCE QUORUM IS PRESENT.** Mayor Packer called the meeting to order at 6:00 pm and announced the presence of a quorum.
2. **INVOCATION.** Councilmember Norman gave the invocation.
3. **PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES AND TO THE TEXAS FLAG.** Councilmember Westerman led the pledges.
4. **UPDATES, PRESENTATIONS AND RECOGNITIONS**

- **Update from Marble Falls Fire Rescue.** Fire Chief Russell Sander gave the update.

5. **CITIZEN COMMENTS.** There were no citizen comments.

6. **CONSENT AGENDA.**

(a) **Approval of the minutes of the July 5, 2016 regular meeting.**

Mayor Pro-Tem Hurst made a motion to approve the consent agenda. Councilmember Norman seconded the motion. The motion carried by a vote of 6-0.

7. **REGULAR AGENDA.**

(a) **Discussion and Action on the Second Reading of Ordinance 2016-O-07A zoning for traffic and rate of speed therein, on RM 1431 in the city limits of the City of Marble Falls; defining speeding and fixing a penalty.** Eric Belaj, City Engineer led the discussion. Councilmember Westerman made a motion to approve Ordinance 2016-O-07A. Councilmember Norman seconded the motion. The motion carried by a unanimous vote (6-0).

(b) **Discussion and Action on Resolution 2016-R-07A authorizing publication of notice of intention to issue Combination Tax and Limited Pledge Revenue Certificates of Obligation in an amount not to exceed \$7,930,000 for the purpose of providing funds for water and sewer system improvements, the purchase of a backhoe, and payment of costs of issuance and professional services related thereto.** Director of Finance Margie Cardenas addressed Council and introduced the City's Financial Advisor Andrew Friedman, SAMCO. City Manager Mike Hodge gave a brief review for the proposed funded projects. Mr. Friedman addressed Council regarding the timeline and future meeting dates. Made a motion to approve Resolution 2016-R-07A. Seconded the motion. The motion carried by a vote of 6-0.

(c) **Discussion and Action on the first reading of Ordinance 2016-O-07B amending the Code of Ordinances of the City of Marble Falls, Texas, Chapter 2 (Administration), Article V (Boards and Commissions, Division 5 (Hotel Motel Tax Advisory Committee), Section 2-169 (Meetings) and waiving the second reading.** Christina McDonald, City Secretary addressed Council. Ms. McDonald stated the proposed amendment is to change the meetings to no less than two meeting a year rather than once a quarter. Councilmember Norman made a motion to approve Ordinance 2016-O-07B and waive the second reading. Councilmember Magerkurth seconded the motion. The motion carried by a vote of 6-0.

1) **Discussion and Action on the first reading of Ordinance 2016-O-07C amending the Code of Ordinances of the City of Marble Falls, Texas, Chapter 2 (Administration), Article V (Boards and Commissions), Division 4 (Capital Improvement Plan Committee), Section 2-152 (Creation – Membership – Appointment), Section 2-156**

(Chair and Vice-Chair) and Section 2-160 (Meetings) and waiving the second reading. Christina McDonald, City Secretary addressed Council. Ms. McDonald stated the proposed amendments are:

- Amend Section 2-153 Creation – Membership – Appointment – Terms to change the committee to be composed of the members of the Planning and Zoning Commission as allowed by Local Government Code Chapter 395 and add two additional members (residents).
- Amend Section 2-156. Delete sentence “An officer may be reelected for not more than one (1) additional one-year term.” None of the city’s other board and commission ordinance have this provision.
- Amend Section 2-160 – Meetings to read “The committee shall meet no less than twice a year, or as needed or requested by the City Manager or City Council.” The current ordinance requires the committee to meet no less than once a quarter.

Councilmember Nash made a motion to approve Ordinance 2016-O-07C and waive the second reading. Councilmember Westerman seconded the motion. The motion carried by a vote of 6-0.

(d) Discussion regarding developing and implementing a truck route(s) to limit truck traffic from Downtown area pedestrian oriented streets. Assistant City Manager Caleb Kraenzel stated this item has been placed on the agenda to discuss the development and implementation of a truck route or routes to limit truck traffic from the downtown area. Mr. Kraenzel presented some of the research and findings from staff’s research. Richard Lewis (Huber) and Matt Smith (Hill Country Recycling) were present and participated in the discussion.

8. CITY MANAGER’S REPORT. City Manager Mike Hodge gave an update on the proposed new HEB and recent changes to the handgun signage at City Hall.

9. EXECUTIVE SESSION

CLOSE OPEN SESSION AND CONVENE EXECUTIVE SESSION Pursuant to §551.071 (Private Consultation between the Council and its Attorney) and Pursuant to §551.072 (Deliberation Regarding the Purchase, Exchange, Lease or Value of Real Property) of the Open Meetings Act. Tex. Gov’t Code, Council will meet in Executive Session to discuss the following:

- Discussion regarding the current Police Department Building

7:26 pm Convened to Executive Session

7:58 pm Returned to Open Session

10. RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ITEMS DISCUSSED IN EXECUTIVE SESSION. No action was taken.

11. ANNOUNCEMENTS AND FUTURE AGENDA ITEMS. City Manager Mike Hodge reminded Council about the upcoming budget workshops scheduled for July 27 and 28 at 11:30 am. Council also reviewed the August 2 draft regular meeting agenda.

12. ADJOURNMENT. There being no further business to discuss, Councilmember Westerman made a motion to adjourn. Mayor Pro-Tem Hurst seconded the motion. The meeting was adjourned at pm 8:03 pm.

John Packer, Mayor

ATTEST:

**Christina McDonald, TRMC
City Secretary**

DRAFT

August 2, 2016

6. CONSENT AGENDA

- (b) Approval of a Contract for Election Services between the City of Marble Falls and the Burnet County Elections Administrator for elections from July 2016 to August 2017.
Christina McDonald, City Secretary
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Background information is attached as follows:

[Cover Memo and Supporting Documentation](#)



**Council Agenda Item Cover Memo
August 2, 2016**

Agenda Item No.: 6(b)
Presenter: Christina McDonald, City Secretary
Department: Administration
Legal Review:

AGENDA CAPTION

Approval of a Contract for Election Services between the City of Marble Falls and the Burnet County Elections Administrator.

BACKGROUND INFORMATION

The attached Contract for Election Services has been prepared and submitted by the Burnet County Elections Administrator for approval by the City Council.

The contract is for the period of August 2016 through July 2017.

The contract allows the Burnet County Elections Administrator to conduct the November 8, 2016 Special Election and the May 2017 General Election.

The City has been contracting with Burnet County since 2005 to conduct our elections.

The proposed contract is attached for your review.

CONTRACT FOR ELECTION SERVICES

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

RECITALS

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

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

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

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

I. GENERAL PROVISIONS.

- A. The purpose of this Contract is to maintain consistency and accessibility in voting practices, polling places, and election procedures to best assist the voters of the LPS. For purposes of this Contract the term "Election" will include any resulting recount or election contest. It will also apply to any election to resolve a tie.
- B. The Contracting Officer is hereby appointed to serve as the LPS's Election Officer and Early Voting Clerk to conduct the Election for those areas of the LPS located in Burnet County. As Election Officer and Early Voting Clerk, the Contracting Officer will coordinate, supervise and conduct all aspects of administering voting in connection with the Election in compliance with all applicable law except as otherwise provided in this Contract.
- C. The LPS agrees to commit the funds necessary to pay for election-related expenses for the LPS's election.
- D. The Contracting Officer has the right to enter into agreements with other entities at any time and may require that authorities of LPSs holding elections on the same day in all or part of the same territory to enter into a joint election agreement as authorized in Chapter 271 of the Texas Election Code. The LPS agrees to enter into a joint election agreement required by Burnet County.

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

- A. ***Nomination of Presiding Judges and Alternate Judges.*** The Contracting Officer shall recruit and appoint Election Day presiding and alternate judges, central accumulation station

judges, and the Early Voting Ballot Board (EVBB) presiding judge, all of which shall meet the eligibility requirements in Subchapter C of Chapter 32 of the Texas Election Code.

B. *Notification to LPS.* The Contracting Officer shall provide the LPS with the most up-to-date list of presiding and alternate judges three weeks before the statutory deadline to order the election and again three weeks before Election Day. LPS acknowledges that the information provided may not be final or complete.

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

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

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

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

E. *Logic and Accuracy Testing.* In advance of Early Voting (including the sending out of any mail ballots), the Contracting Officer, the tabulation supervisor, and other members the Contracting Officer designates for the testing board shall conduct all logic and accuracy testing in accordance with the procedures set forth by the Texas Election Code and under guidelines provided by the Secretary of State's office. The Contracting Officer shall also be responsible for the publication of the required notice of such testing.

F. *Election Supplies.* The Contracting Officer shall procure, prepare, and distribute to the presiding judges for use at the polling locations on Election Day (and to the Early Voting clerks during Early Voting) the following election supplies: election and early voting kits (including the appropriate envelopes, lists, forms, name tags, posters, and signage described in Chapters 51, 61, and 62, and Subchapter B of Chapter 66 of the Texas Election Code) seals, sample ballots, thermal paper rolls for use in the Judge's Booth Controllers (JBCs), batteries for use in the JBCs and eSlates, labels for the electronic poll books, and all consumable-type office supplies necessary to hold an election.

G. *Registered Voter List.* The Contracting Officer shall provide lists of registered voters required by law for use on Election Day and for the Early Voting period.

H. **Notice at Previous Polling Place.** The Contracting Officer shall post notices of a change in a polling place at the entrance to the previous polling location. Section 43.062 of the Texas Election Code provides that the notice shall state the location has changed and give the location of the new polling place.

I. **Election Equipment.** The Contracting Officer shall prepare and distribute the Direct Record Electronic (DRE) voting system components from Hart InterCivic, Inc. ("Hart") for the election. This voting system includes the equipment referred to as "eSlates" and "Judge's Booth Controllers" (JBCs). Each polling location will have at least one voting machine that is accessible to disabled voters and provides a practical and effective means for voters with disabilities to cast a secret ballot.

J. **Ballots.** The Contracting Officer or designee shall be responsible for the preparation, printing, programming and distribution of English and Spanish ballots and sample ballots, including the mail ballots, based on the information provided by the LPS, including names of the candidates, names of the offices sought, order of names on the ballot, propositions on the ballot, and the Spanish translation of the offices and any propositions. The ballot will be prepared in these formats: DRE, paper and auditory.

K. **Early Voting.** In accordance with Sections 31.096 and 32.097(b) of the Texas Election Code, the Contracting Officer shall serve as Early Voting Clerk for the election.

1. The Contracting Officer shall supervise and conduct early voting by mail and by personal appearance and shall secure personnel to serve as Early Voting Deputies.
2. Early Voting by personal appearance for the election shall be conducted during the hours and time period and at the locations as determined by the Contracting Officer.
3. The Contracting Officer shall receive mail ballot applications on behalf of the LPS. All applications for mail ballots shall be processed in accordance with Title 7 of the Texas Election Code by the Contracting Officer or deputies at the Records Building, located behind the Burnet County Courthouse Annex at 1701 E. Polk St., Burnet, TX. Applications for mail ballots erroneously sent to the LPS shall be faxed promptly to the Contracting Officer for timely processing then the original application shall be forwarded to the Contracting Officer for proper retention.
4. Early voting ballots shall be secured and maintained at the Records Building at 1701 E. Polk St., Burnet, TX and in accordance with Chapter 87 of the Texas Election Code. The Early Voting Ballot Board shall meet at the same location unless posted differently.

L. **Election Day Polling Locations.** The Election Day polling locations are determined by the Contracting Officer in consultation with the LPS and in accordance with the Texas Election Code. The Contracting Officer shall arrange for the use of all Election Day polling places and shall arrange for the setting up of the polling location including tables, chairs and voting booths.

M. **Election Day Activities.**

1. The Contracting Officer and staff shall be available from 6:00 am until the completion of vote counting on Election Day to render technical support and assistance to voters and

election workers.

2. The Contracting Officer and staff shall prepare and conduct Election Night intake of election equipment, supplies and records.
3. The Contracting Officer and designee shall serve as central counting station manager and tabulation supervisor, counting the votes in conjunction with the Early Voting Ballot Board and the Central Counting Station judges.

N. Election Night Reports. The Contracting Officer shall prepare the unofficial and official tabulation of precinct results under Section 66.056(a) of the Texas Election Code. The unofficial tabulation of Early Voting precinct results and Election Day precinct results shall be made available to the LPS via e-mail as soon as they are prepared and may be released under law, but no earlier than 7:05 pm on Election Day. The tabulation reports may also be provided to other counties as necessary for the election.

O. Provisional Votes/Determination of Mail Ballots Timely Received under Section 86.007(d) of the Texas Election Code. The Contracting Officer, serving as voter registrar, shall retain the provisional voting affidavits and shall provide factual information on each of the provisional voters' status. The Contracting Officer shall reconvene the EVBB after the election within the time set forth in Section 65.051 of the Texas Election Code for the purpose of determining the disposition of the provisional votes. At the same time, the EVBB will review mail ballots timely received under Section 86.007(d) of the Texas Election Code to determine whether such will be counted and to resolve any issues with such ballots.

P. Canvass Material Preparation. Promptly after determination of the provisional votes and resolution of any mail ballots, the Contracting Officer shall work with the EVBB to tally the accepted provisional votes and resolved mail ballots, amend the unofficial tabulations, and submit new unofficial tabulations to the LPS. The reports will serve as the canvass materials for the LPS.

Q. Custodian of Election Records. The election records will be submitted to the LPS except for those records that must be maintained by the Contracting Officer as Voter Registrar in accordance with Section 66.051 of the Texas Election Code. The Contracting Officer is hereby appointed the custodian of voted ballots (which in the case of the ballots cast on the DRE voting system consists of the DVD backup) and shall preserve them in accordance with Chapter 66 of the Texas Election Code and other applicable law. The Contracting Officer shall also maintain custody of the records pertaining to the operation of the JBCs and eSlates.

R. Recount.

1. If required by law, the Contracting Officer shall perform a partial manual count of electronic voting system ballots in accordance with section 127.201 of the Texas Election Code. A recount may also be requested in accordance with Chapter 212 of the Texas Election Code.
2. The LPS shall advise the Contracting Officer if a recount is required by law or requested and the Contracting Officer and the LPS shall discuss how such recount is

to be conducted. The LPS shall reimburse the Contracting Officer for the cost of such count which is not included in the original invoice.

S. *Schedule for Performance of Services.* The Contracting Officer shall perform all election services in accordance and compliance with the time requirements set out in the Texas Election Code.

T. *Contracting with Third Parties.* In accordance with Section 31.098 of the Texas Election Code, the Contracting Officer is authorized to contract with third parties for election services and supplies. The cost of such third-party services and supplies will be paid by the Contracting Officer and reimbursed by the LPS.

U. *Department of Justice Preclearance for General Elections.* If required by law, any changes to the general conduct of voting in Burnet County will be pre-cleared through the United States Department of Justice by the Contracting Officer with copies of the submission and response e-mailed to the LPS.

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

A. *Applications for Mail Ballots.* The LPS shall date stamp and then as promptly as possible fax to the Contracting Officer all applications for mail ballots that it receives. Promptly thereafter, the LPS shall deliver or send by mail the original mail ballot applications to the Contracting Officer.

B. *Election Orders, Election Notices, and Canvass.* The LPS shall be responsible for preparing, adopting, publishing, and posting all required election orders, resolutions, notices and other documents, including bilingual materials, evidencing action by the governing authority of the LPS necessary to the conduct of the election. The LPS shall be responsible for conducting the official canvass of the election.

C. *Map/ Annexations.* The LPS shall provide the Contracting Officer with an updated map and street index of its jurisdiction in an electronic or printed format and shall advise the Contracting Officer of any annexations or de-annexations.

D. *Department of Justice Preclearance for Special Elections.* If required by law, the LPS shall be individually responsible for obtaining appropriate preclearance from the United States Department of Justice for any special elections.

E. *Ballot Information.* The LPS shall prepare the text for the LPS's official ballot in English and Spanish and provide to the Contracting Officer as soon as possible at the end of the period for ordering the election or filing for candidacy. The ballot information shall include a list of propositions showing the order and the exact manner in which the candidates' names and the propositions are to appear on the ballot. The LPS shall promptly review for correctness the ballot when requested by the Contracting Officer to do so prior to finalization and shall approve by e-mail or by signature in person.

F. *Precinct Reports to the Texas Secretary of State.* Based on information provided by the Contracting Officer, the LPS shall prepare and file all required precinct reports with the Texas Secretary of State.

G. **Annual Voting Report.** The LPS shall be responsible for filing its annual voting system report to the Texas Secretary of State as required under Chapter 123 *et seq.* of the Texas Election Code.

IV. **SPECIAL PROVISIONS RELATING TO ELECTION WORKERS**

A. **Number of Election Workers at Election Day Polling Locations.** It is agreed by the Contracting Officer and the LPS that there will be at least three election workers at each Election Day polling location: the presiding judge, an alternate judge, and at least one election clerk appointed by the presiding judge. The number of necessary clerks is derived from the number of elections at the poll and the number of registered voters for that poll.

B. **Compensation for Election Workers.** The Contracting Officer shall compensate all election workers in accordance with the Contracting Officer's established compensation policies, in accordance with the Texas Election Code and using the rates set by Burnet County Commissioners Court for county elections. The Contracting Officer shall pay the workers and be reimbursed by the entities sharing the polling location unless a polling place is open for only one LPS holding an election. In this case, the LPS shall pay the election workers directly.

V. **PAYMENT**

A. **Charges and Distribution of Costs.** In consideration of the joint election services provided by the Contracting Officer, the LPS will be charged a share of election costs and an administrative fee. The costs distribution is set forth in the Joint Election Agreement. The cost estimate is set forth in the Cost Estimate.

B. **Administrative Fee.** The Contracting Officer shall charge a fee equal to 10% of the LPS's share of the cost of the election or a minimum of \$75.00.

C. **Equipment Rental Fee.** Per Section 123.032(d) of the Texas Election Code, the Burnet County Commissioners Court has set the equipment rental fee at \$150 per JBC and per eSlate. There is no charge for Early Voting rental of equipment. If the County acquires additional equipment, different voting equipment, or upgrades existing equipment during the term of this Contract, the charge for the use of the equipment may be reset by the Burnet County Commissioners Court.

D. **Fixed Lump Sum Price for Districts other than Cities, School Districts and Central Texas Groundwater Conservation District.** A LPS that is not a city, school district or the Central Texas Groundwater Conservation District shall pay the Contracting Officer a fixed lump sum price to administer its election. The only item not included in the lump sum price is the cost of any recount.

E. **Payment.** The Contracting Officer's invoice shall be due and payable to the address set forth in the invoice within 30 days from the date of receipt by the LPS.

VI. **TERM AND TERMINATION**

A. **Initial Term.** The initial term of this Contract shall commence upon the last party's execution

hereof and shall continue thereafter in full force and effect for one year, subject to the termination rights set forth herein.

- B. **Renewal.** Subject to the termination rights set forth herein, this Contract shall automatically renew for a one-year term.
- C. **Termination.** If either party wishes to terminate this Contract for convenience or for cause the party must provide thirty (30) business days' written notice to the other party and allow for discussion of the desired outcome and options to reach the desired outcome. In the event of termination, it is understood and agreed that only the amounts due to the Contracting Officer for services provided and expenses incurred will be due and payable.

VII. MISCELLANEOUS PROVISIONS

- A. **Nontransferable Functions.** In accordance with Section 31.096 of the Texas Election Code, nothing in this Contract shall authorize or permit a change in:
 - 1. The authority with whom or the place at which any document or record relating to the election is to be filed;
 - 2. The officers who conduct the official canvass of the election returns;
 - 3. The authority to serve as custodian of voted ballots or other election records; or
 - 4. Any other nontransferable function specified under Section 31.096 or other provisions of Texas law.
- B. **Cancellation of Election.** If the LPS cancels its election pursuant to Section 2.053 of the Texas Election Code, the Contracting Officer shall be entitled to receive an administrative fee of \$75. The Contracting Officer shall submit an invoice for the administrative fee as soon as reasonably possible after the cancellation, and the LPS shall make payment therefore in a manner similar to that set forth in **V. PAYMENT** above.
- C. **Contract Copies to Treasurer and Auditor.** In accordance with Section 31.099 of the Texas Election Code, the Contracting Officer agrees to file copies of this Contract with the County Treasurer and the County Auditor of Burnet County, Texas.
- D. **Election to Resolve a Tie.** In the event that an election is necessary to resolve a tie vote, the terms of this Contract shall extend to the second election, except:
 - 1. The LPS and the Contracting Officer will agree upon the date of the election and the early voting schedule subject to provisions of the Election Code and with regard to other elections conducted by the Contracting Officer.
 - 2. The LPS will be responsible for any Department of Justice preclearance submission under Section 5 of the Federal Voting Rights Act.
 - 3. An attempt will be made to use election workers that worked in the first election; those poll workers will not have additional training provided by the Contracting Officer.

4. The cost of the election will be borne by the LPS; the Contracting Officer will work with the LPS on cost management.

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

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

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

For the Contracting Officer:

Doug Ferguson
Elections Administrator, Burnet County
220 S. Pierce
Burnet, TX 78611
Tel: (512) 715-5288
Fax: (512) 715-5287
Email: electadmin@burnetcountytexas.org

For the LPS:

WITNESS BY MY HAND THIS THE _____ DAY OF _____, 20____.

CONTRACTING OFFICER:

Doug Ferguson, Elections Administrator
Burnet County, Texas

WITNESS BY MY HAND THIS THE _____ DAY OF _____, 20____.

THE LOCAL POLITICAL SUBDIVISION:

Name of Entity: _____

By: _____

Printed Name: _____

Official Capacity: _____

ATTEST: _____

August 2, 2016

6. CONSENT AGENDA

- (c) Approval of a Joint Election Agreement with Burnet County for elections from July 2016 to August 2017. **Christina McDonald, City Secretary**
-

Background information is attached as follows:

[Cover Memo and Supporting Documentation](#)



**Council Agenda Item Cover Memo
August 2, 2016**

Agenda Item No.: 6(c)
Presenter: Christina McDonald, City Secretary
Department: Administration
Legal Review:

AGENDA CAPTION

Approval of a Joint Election Agreement with Burnet County.

BACKGROUND INFORMATION

The attached Joint Election Agreement has been prepared and submitted by the Burnet County Elections Administrator for approval by the City Council.

The agreement is for the period of August 2016 through July 2017.

The agreement outlines the appointment of election officers, early voting locations and hours, Election Day polling locations and hours and cost sharing.

The proposed agreement is attached for your review.

JOINT ELECTION AGREEMENT 2016-2017

FOR BURNET COUNTY LOCAL POLITICAL SUBDIVISIONS

Whereas, the undersigned local political subdivisions, collectively referred to hereafter as the "LPSs", each anticipate holding election(s) from August 2016 to July 2017; and

Whereas, each of the LPSs is located partially or entirely within Burnet County, Texas (the "County"); and

Whereas, the County has contracted or is contracting with each LPS to conduct and provide election services for such LPS's election(s) from August 2016 to July 2017; and

Whereas, the LPSs all desire to enter into a joint election agreement for the purpose of sharing election equipment, costs, services of election officials, and sharing precinct polling locations and election ballots where appropriate.

NOW THEREFORE, the LPSs agree as follows:

- I. **Scope of Joint Election Agreement.** The LPSs enter this Joint Election Agreement ("Agreement") for the conduct of the elections to be held from August 2016 through July 2017.
- II. **Appoint Election Officer.** The LPSs appoint the Burnet County Elections Administrator to serve as the Election Officer for each LPS in order to perform and supervise the duties and responsibilities of the Election Officer for any election from August 2016 through July 2017.
- III. **Early Voting Polling Locations.** The Early Voting locations for the elections will be at the main Burnet Courthouse, 220 S. Pierce, Burnet, TX 78611 and the Courthouse South Annex in Marble Falls, 810 Steve Hawkins Pkwy., Marble Falls, TX 78654. The costs incurred in connection with the Burnet Courthouse Early Voting location will be shared only by the Burnet Consolidated Independent School District, the City of Burnet, the City of Bertram, the Central Texas Groundwater Conservation District (CTGCD) and Burnet County. The costs incurred in connection with the Courthouse South Annex Early Voting location will be shared only by the Marble Falls Independent School District, the City of Marble Falls, the City of Granite Shoals, the City of Cottonwood Shores, the City of Meadowlakes, the City of Highland Haven, the City of Horseshoe Bay, the CTGCD and Burnet County.
- IV. **Election Day Polling Locations.** Election Day voting shall be held in common precincts where appropriate at the dates, times, and locations recommended by the Election Officer and authorized and ordered by the governing body of each LPS. Those will be decided within one week after the last day to order an election.
- V. **Cost Sharing.** The LPSs agree to the cost sharing provisions below. This includes Burnet County, the school districts of the county, the cities of the county, and the Central Texas Groundwater Conservation District. Other entities pay a lump sum of \$1,000 for their election.
- VI. **Effective Date.** This Agreement becomes effective upon execution by the participating LPSs.
- VII. **Amendments.** This Agreement may not be amended or modified except in writing and executed by each LPS.

COST SHARING – NOVEMBER UNIFORM ELECTION DATE

- I. The following expenses will be shared equally by all LPSs holding an election including Burnet County: the newspaper notice for the Logic and Accuracy Test of the ballots, consumable election supplies, and ballot programming.
- II. The user fees for the voting equipment, election worker payroll, and mileage payments to poll workers will follow these cost sharing arrangements:
 - a. The county will bear at least 70% of these election costs at each voting location. The remaining 30% will be shared so that 20% is paid by the Independent School District (ISD) or CTGCD associated with the polling place and the remaining 10% is paid by any/all cities equally sharing the costs. If both the ISD and CTGCD are holding elections, they each pay 10%, with any/all cities equally sharing the remaining 10%.
 - b. If there is no city election, the ISD or CTGCD associated with the polling place pays 20% or 10% each and the county the remaining 80%. Subsequently, if there is no ISD or CTGCD election, any/all cities pay 10% of the costs associated with the polling place and the county pays 90%.
 - c. If there is no city, no ISD and no CTGCD election, the county pays 100% of the costs.
- III. It is acknowledged that cost sharing expenses will fluctuate depending upon the number of required polling locations and poll workers required as General Elections, held on even-numbered years, typically require more resources than Constitutional Amendment elections, held on odd-numbered years.

COST SHARING – MAY UNIFORM ELECTION DATE

- I. The following expenses will be shared equally by all LPSs holding an election including Burnet County: the newspaper notice for the Logic and Accuracy Test of the ballots, consumable election supplies, and ballot programming.
- II. The user fees for the voting equipment, election worker payroll, and mileage payments to poll workers will follow these cost sharing arrangements:
 - a. For polling locations conducting elections of the county: the county will bear 50% of the election costs at each voting location. The remaining 50% will be shared so that 40% is paid by the Independent School District (ISD) associated with the polling place and the remaining 10% is paid by any/all cities equally sharing the costs.
 - b. If there is no city election, the ISD associated with the polling place pays 50%. Subsequently, if there is no ISD election, any/all cities pay 50% of the costs equally.
 - c. If there is no city or ISD election the county pays 100%.
 - d. For polling locations NOT conducting elections of the county: the ISD pays 80% and any/all cities pay 20% equally.
 - e. If there is no city election, the ISD pays 100%.
 - f. If there is no ISD election, any/all cities pay 100% equally.

A cost estimate for the LPS election will be submitted separately.

APPROVED BY THE GOVERNING BODY OF _____ in its meeting held the
_____ day of _____, 201_, and executed by its authorized representative.

By: _____
Name: _____
Title: _____

ACKNOWLEDGED BY:

Doug Ferguson
Elections Administrator, Burnet County, Texas

Date

August 2, 2016

6. CONSENT AGENDA

- (d) Approval of Ordinance 2016-O-08B ordering a Special Election on November 8, 2016 to submit to the voters proposed amendments to the City of Marble Falls Charter.
Christina McDonald, City Secretary
-

Background information is attached as follows:

[Cover Memo and Supporting Documentation](#)



**Council Agenda Item Cover Memo
August 2, 2016**

Agenda Item No.: 6(d)
Presenter: Christina McDonald, City Secretary
Department: Administration
Legal Review:

AGENDA CAPTION

Approval of Ordinance 2016-O-08B ordering a Special Election on November 8, 2016 to submit to the voters proposed amendments to the City of Marble Falls Charter.

BACKGROUND INFORMATION

The attached ordinance orders a Special Election to be held on November 8, 2016 for the purpose of submitting proposed amendments to the City Charter to the voters of Marble Falls

Early Voting will be held at the Marble Falls Courthouse Annex and the Burnet County Courthouse on October 24 through November 4. The polls will be open 8am – 5pm October 24 through 31 and from 7am – 7pm October 31 through November 4.

On Election Day (November 8, 2016) voting will be at the Marble Falls Courthouse Annex from 7am – 7pm.

ORDINANCE NO. 2016-O-08B

AN ORDINANCE ORDERING A SPECIAL ELECTION TO BE HELD IN THE CITY OF MARBLE FALLS, TEXAS, TO SUBMIT TO THE VOTERS PROPOSED AMENDMENTS TO THE CITY OF MARBLE FALLS CHARTER; PROVIDING PROPOSITIONS FOR EACH AMENDMENT; PROVIDING REVISED CHARTER LANGUAGE FOR EACH PROPOSITION APPROVED BY THE VOTERS; MAKING PROVISIONS FOR THE CONDUCT OF THE ELECTION AND RESOLVING OTHER MATTERS INCIDENT AND RELATED TO SUCH ELECTION; AND PROVIDING FOR RECITAL INCORPORATION; CONFLICTING PROVISIONS; GOVERNING LAW; SEVERABILITY; PROPER NOTICE AND OPEN MEETING; AND EFFECTIVE DATE.

WHEREAS, the City of Marble Falls, Texas, (“City”) is a home rule municipality with a Charter that was approved by the voters on August 9, 1986 and amended by the voters on August 11, 1990, November 11, 2002, May 8, 2010, and November 5, 2013; and

WHEREAS, more than two (2) years have passed since the Charter was last amended; and

WHEREAS, the City Council finds that the Charter should be amended to make certain provisions of the Charter consistent with State Law, to clarify portions of the Charter where the language of the Charter may be subject to different interpretation, and to provide additional language that will further the ability of the City to provide for effective and efficient operation of the City; and

WHEREAS, the City Council hereby finds and determines that it is in the public interest to call a special election (“Election”) to place these proposed amendments to the City Charter at the earliest practicable date to allow the voters to decide whether to authorize the amendments; and

WHEREAS, the City Council has determined that an election on November 8, 2016, the next uniform election date authorized by State Law, would constitute an appropriate date for such an Election; and

WHEREAS, the City Council has the authority pursuant to Chapter 271, Texas Election Code and Chapter 31, Texas Election Code, to enter into joint election agreements with the other political subdivisions also holding an election on the same date;

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

SECTION 1: Call of Election; Date and Time; Qualified Voters. A special election shall be held between the hours of 7:00 A.M. and 7:00 P.M. in the City of Marble Falls, Texas on the 8th day of November, 2016, which date is seventy-one (71) or more days from the

date of the adoption of this Ordinance and is not less than fifteen (15) nor more than ninety (90) days from the date of the adoption hereof. All resident qualified electors of the City shall be permitted to vote at the election.

SECTION 2: Propositions. At such Election the following measures shall be submitted and shall appear on the ballot substantially as follows:

PROPOSITION NO. 1

Ballot Language: Shall Sec. 3.06 (a)(Vacancies, Forfeiture of Office, Filling Vacancies) and Sec. 10.05 (oath of office) be amended to require that newly elected or re-elected Councilmembers or Mayor must take the oath of office within 30 days of the election (i.e. the canvass) or the office will become vacant.

Yes

No

In the event Proposition No. 1 is approved by the voters, Sec 3.06 (a) shall be amended and a new third sentence in Sec 10.05 shall be added to amend these sections which amendments shall read as follows:

Section 3.06. – Vacancies, Forfeiture, Filling of Vacancies.

a) Vacancies: The office of a Councilmember or the office of the Mayor shall become vacant if the Councilmember or the Mayor fails to take the oath of office within 30 days of the election (i.e. the canvass), or upon death, resignation or removal from office in any manner authorized by law or by forfeiture of office.

Section 10.05.- Oath of Office

The officers of the City shall, whether elected or appointed, before entering upon the duties of their respective offices, take and subscribe to the official oath prescribed by the Constitution of the State of Texas. The oath shall be administered by the Mayor, Mayor Pro-Tem, City Secretary or other person authorized by law to administer oaths. The oath of office of a newly elected or re-elected Mayor or Councilmember shall occur within 30 days of the election (i.e. the canvass) or the office will become vacant.

PROPOSITION NO. 2

Ballot Language: Shall the third, fourth and fifth paragraphs of Section 3.13, Ordinances in General, of the Charter be amended to change the requirements for two readings of an ordinance and the publication of two notices of an ordinance to one reading and one publication of notice, except as otherwise required by State Law.

Yes

No

In the event Proposition No. 2 is approved by the voters, the fourth and fifth paragraphs of Section 3.13 will be deleted and the third paragraph of Section 3.13, Ordinances in General, shall be amended to read as follows:

Paragraph 3- Unless otherwise required by State Law, all ordinances of the City shall be read at one (1) regular Council Meeting and the caption of the ordinance published in at least one issue of the official newspaper of the City of Marble Falls with the publication occurring at least fourteen (14) days before passage of the Ordinance.

Paragraph 4 and 5 shall be deleted.

PROPOSITION NO. 3

Ballot Language: Shall the second sentence of Section 7.13, Depository, of the Charter be amended to allow the City Manager to designate an alternate city employee the authority to execute checks in the absence or unavailability of the City Manager?

Yes

No

In the event Proposition No. 3 is approved by the voters, the second sentence of Section 7.13, Depository shall be amended to read as follows:

All checks, vouchers, or warrants for the withdrawal of money from the city depositories shall be signed by the City Manager, or by the Mayor in the absence of the City Manager, or by the City Manager's designee, if both the City Manager and the Mayor are absent or unavailable and countersigned by a city official designated by the City Council. Provided, that the Council, under such regulations and limitations as it may prescribe, may by ordinance authorize the use of machine-imprinted facsimile signatures of said Mayor or City Manager on such checks, vouchers and warrants.

PROPOSITION NO. 4

Ballot Language: Shall the last sentence of Section 7.13, Depository, of the Charter be amended to allow facsimile signatures on the value of checks to be increased from \$5000 to \$15,000?

Yes

No

In the event Proposition No. 4 is approved by the voters, the last sentence of Section 7.13, Depository shall be amended to read as follows:

Two real signatures shall be required for all checks in excess of ~~\$5,000.00~~ \$15,000.00.

PROPOSITION NO. 5

Ballot Language: Shall the first two sentences of Section 7.17, Financial Records and Reports, of the Charter be amended to provide that the City Manager is required to present financial reports to the City Council on a bi-annual basis instead of a monthly basis?

Yes

No

In the event Proposition No. 5 is approved by the voters, the first two sentences of Section 7.17, Financial Records and Reports, shall be amended to read as follows:

The City Manager shall report to the Council ~~each month~~ on a bi-annual basis the financial condition of the City. For each budget item the ~~monthly~~ bi-annual report will show the annual amount budgeted, the amount realized ~~in the preceding month~~ since the last report and the amount realized in the fiscal year to the report date.

PROPOSITION NO. 6

Ballot Language: Shall the first sentence of Section 10.07, Surety Bonds, of the Charter be amended to provide that the City Council shall have the discretion to designate which officers and employees of the City that handle money shall be required to provide a surety bond to the City instead of mandating that all officers and employees that handle money be required to provide a surety bond?

Yes

No

In the event Proposition No. 6 is approved by the voters, the first sentence of Section 10.07, Surety Bonds shall be amended to read as follows:

The Council shall determine which city officers and employees whose duties will include the handling of moneys, before starting employment or entering the duties of office, shall make a surety bond in an amount and with a surety company acceptable to the Council.

PROPOSITION NO. 7

Ballot Language: Shall the second sentence of Section 10.04, Nepotism, of the Charter be amended to be consistent with State Law, to change the requirement for continuous employment of a city employee from two years to six months in order to allow the employee to remain employed

by the City in the event that a relative is elected as Mayor or to the City Council or from two years to thirty days if a relative is hired as the City Manager or other appointing officer?

Yes

No

In the event Proposition No. 7 is approved by the voters, the second sentence of Section 10.04, Nepotism shall be amended to read as follows:

No person related within the second degree by affinity, nor within the third degree by consanguinity to the Mayor, a Councilmember, the City Manager, or other appointing city officer, may be appointed to a paid position of the City. This prohibition shall not apply to a person who is a current city employee and has been a city employee for ~~two (2) years~~ six (6) months or longer at the time of the election of the Mayor or Councilmember or thirty (30) days or longer at the time of the appointment of the City Manager or other appointing city officer.

PROPOSITION NO. 8

Ballot Language: Shall Section 5.05, Filing for Office, subsection (c) of the Charter be amended by removing subsection (c) which subsection requires that a candidate for elective office not be in arrears in the payment of taxes or other liabilities due the City and which qualification requirement is contrary to State Law?

Yes

No

In the event Proposition No. 8 is approved by the voters, Sec. 5.05, Filing for Office, subsection (c) shall be deleted and the other subsections renumbered accordingly.

SECTION 3: Joint Election Authorized, Use of Electronic Voting System and Authorization of Ballot. The election shall be held as a joint election pursuant to Texas Election Code Chapter 271 in conjunction with other elections which may be held on the election day by other political subdivisions in Burnet County (hereinafter "Participating Entities") under a joint election agreement to be approved by the City.

An electronic voting system shall be used for said election and for early voting, by personal appearance and paper ballots for early voting by mail. A single ballot containing the measures in this Election as well as any other races or measures of the County or Participating Entities in the joint election shall be prepared in accordance with the Texas Election Code so as to permit qualified electors of the City to vote "YES" or "NO" on the aforesaid propositions.

SECTION 4: Election Day Precincts, Polling Places. The election precincts for the election shall be the election precincts established by Burnet County, provided that each shall contain and include geographic area that is within the City and the election precincts are in accordance with the City Charter. The polling place for election-day voting shall be: 810 Steve Hawkins Parkway,

Marble Falls, Texas. The polls shall remain open on the day of the election from 7:00 a.m. to 7:00 p.m. The returns for precincts in Burnet County will be provided by precinct and the Burnet County Elections Administrator shall tabulate and provide the election returns for the election.

SECTION 5: Conduct of Election. The Burnet County Elections Administrator and the Administrator's employees and appointees, and the election judges, alternate judges and clerks properly appointed for the election, shall hold and conduct the election in the manner provided by the Election Agreement and in accordance with the Texas Election Code and Chapter 1251, Texas Government Code. The official ballots, together with such other election materials as are required by the Texas Election Code, shall be prepared in both the English and Spanish languages, and shall contain such provisions, markings, and language as required by law.

SECTION 6: Early Voting: Early Voting Polling Places, Dates and Times. Early voting for the election shall be conducted jointly with the Participating Entities. The Burnet County Elections Administrator shall serve as the Early Voting Clerk, and shall appoint any necessary early voting clerks to assist her. Early voting by personal appearance for the election shall be conducted jointly at the locations and on the dates and times specified in Exhibit "A" which is attached hereto and incorporated herein by reference as a part hereof for all purposes. Qualified voters may submit applications for ballot by mail. Applications for early voting by mail must be submitted to the Early Voting Clerk during the time period and at the address set forth in Exhibit "A". Exhibit "A" shall be modified to include any additional or different early voting locations designated by the Burnet County Elections Administrator and to conform to the Election Agreement.

SECTION 6: Election Judges and Clerks. The presiding judges, alternate presiding judges, and clerks for the election shall be selected and appointed by Burnet County and its appointees in compliance with the requirements of State Law, and such judges and clerks so selected by Burnet County and its appointees are hereby designated and appointed by the City Council as the election officers, judges and clerks, respectively, for the holding of said special election. The presiding judges, alternate presiding judges and clerks shall perform the functions and duties of their respective positions that are provided by State Law. The City Council hereby confirms and appoints the election judges and alternate election judges heretofore designated to the City in writing by Burnet County as being appointed by Burnet County for the election, and as subsequently substituted as provided by law.

SECTION 7. Election Materials and Supplies. The City Secretary is instructed to aid the Burnet County Elections Administrator in the acquisition and furnishing of all election supplies and materials necessary to conduct the election. The City Secretary is further authorized to give or cause to be given notices required for the election, and to take such other and further action as is required to conduct the election in compliance with the Texas Election Code; provided that, pursuant to the Election Agreement between the City and Burnet County, the Burnet County Elections Administrator shall have the duty and be responsible for organizing and conducting the election in compliance with the Texas Election Code; and for providing all services specified to be provided in the Election Agreement.

SECTION 8: Notices. A substantial copy of this Ordinance shall serve as proper notice of the election. The notice, including a Spanish translation thereof, shall be posted at three (3) public places within the City and at the City Hall not less than twenty-one (21) full days prior to the date on which the election is to be held, and be published on the same day in each of two successive weeks in a newspaper of general circulation in the City, the first publication to appear not more than thirty (30) days and not less than fourteen (14) full days prior to the day of the election.

SECTION 9. Effective Date. This Ordinance shall be in force and effect from and after its passage on the date shown below.

SECTION 10. Open Meetings. It is further found and determined that in accordance with this Ordinance of this governing body that the City Secretary posted written notice of the date, place, and subject of this meeting on the bulletin board located at City Hall, a place convenient to the public, and said notice having been so posted continuously for at least 72 hours preceding the date of this meeting. A copy of the return of said posting shall be attached to the minutes of the meeting and shall be made apart thereof for all intents and purposes.

Passed and Approved on this the ____ day of August, 2016.

CITY OF MARBLE FALLS

John Packer, Mayor

ATTEST:

Christina McDonald, City Secretary

APPROVED AS TO FORM:

Patty L. Akers, City Attorney

EXHIBIT A

**November 8, 2016 Burnet County Local Elections
Early Voting Locations and Hours**

Polling Place		Address			City	
Burnet County Courthouse		220 S. Pierce			Burnet, TX 78611	
Marble Falls Courthouse Annex		810 Steve Hawkins Pkwy.			Marble Falls, TX 78654	
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<i>Oct. 23</i>	<i>Oct. 24</i>	<i>Oct. 25</i>	<i>Oct. 26</i>	<i>Oct. 27</i>	<i>Oct. 28</i>	<i>Oct. 29</i>
	8am-5pm	8am-5pm	8am-5pm	8am – 5pm	8am-5pm	
<i>Oct. 30</i>	<i>Oct. 31</i>	<i>Nov. 1</i>	<i>Nov. 2</i>	<i>Nov. 3</i>	<i>Nov. 4</i>	<i>Nov. 5</i>
	7am-7pm	7am-7pm	7am-7pm	7am-7pm	7am-7pm	

August 2, 2016

7. REGULAR AGENDA

- (a) Discussion regarding light pollution and the protection of the night sky. **Mayor John Packer**
-

Background information is attached as follows:

[Cover Memo and Supporting Documentation](#)



**Council Agenda Item Cover Memo
August 2, 2016**

Agenda Item No.: 7(a)
Presenter: Mayor John Packer
Department: Council
Legal Review: N/A

AGENDA CAPTION

Discussion regarding light pollution and the protection of the night sky.

BACKGROUND INFORMATION

This item has been placed on the Council agenda for discussion at the request of Mayor John Packer in order to discuss light pollution and the protection of the night sky.

Development Services will be providing a factual handout and a short presentation at the Council Meeting.

August 2, 2016

7. REGULAR AGENDA

(b) Public Hearing, Discussion and First Reading of Ordinance 2016-O-08A zoning for traffic and rate of speed on SH-71 in the city limits of the City of Marble Falls; defining speeding and fixing a penalty therefore; declaring what may be a sufficient complaint in prosecutions hereunder; with a saving clause repealing conflicting laws and declaring an emergency. **Eric Belaj, City Engineer**

Background information is attached as follows:

[Cover Memo and Supporting Documentation](#)



**Council Agenda Item Cover Memo
August 2, 2016**

Agenda Item No.: 7(b)
Presenter: Eric Belaj, PE, CFM
Department: Administration
Legal Review:

AGENDA CAPTION

Public Hearing, Discussion, and First Reading of Ordinance 2016-O-08A zoning for traffic and rate of speed on SH-281 in the city limits of the City of Marble Falls; defining speeding and fixing a penalty therefore; declaring what may be a sufficient complaint in prosecutions hereunder; with a saving clause repealing conflicting laws and declaring an emergency.

BACKGROUND INFORMATION

Staff previously requested that TxDOT take a look at the speed limit on SH-71, from SH-281 to the Baylor Scott and White entrance as a result of the Fire Department ingress/egress concerns. The request came as a result of the Marble Falls Fire Department request in July of 2015; to change the speed limit from SH-281 to the Baylor Scott and White to 55-miles per hour (MPH). TxDOT in turn analyzed the speed limit from the locations that the city limit intersects SH-71; from the east side of the city limit, to the west side, past the new hospital.

TxDOT is proposing the new speed limit on SH-71, from the eastern edge of the city limit to the western edge, changing from 70-MPH to 60-MPH. The remainder of the speed zones will remain as they currently are.

TxDOT requested that City staff review the speed zone documents and present to council for approval. Similarly to previous speed zone changes, City's law enforcement will enforce the new vehicle travel speed as done in other parts of the City.

The current 70-MPH speed in this area, with people attempting to merge onto State Highway 71 from the hospital and clinic creates a hazardous traffic conditions. This issue along with the emergency vehicles needing to access the clinic and hospital, or leaving the hospital, have to contend with vehicles traveling at unnecessarily high speeds, making merging safely into traffic flow more dangerous, than a lower speed limit zone would provide.

The ordinance was published in the paper twice, on Friday, July 15, 2016 and on Tuesday, July 22, 2016. This is the public hearing and first reading of the ordinance. Second reading, and approval is scheduled for August 16th council meeting.

Staff has reviewed the attached documents and recommend the approval of this ordinance.



July 31, 2015

Bobby Ramthun
TxDOT Engineer, Burnet County
3029 E. SH 29
Burnet, TX 78611

Dear Mr. Bobby Ramthun,

As you may know, the new Baylor Scott & White Hospital and Clinic have been completed on State Highway 71.

The speed limit in this area is currently 70mph, which causes the fire department great concern.

There are several factors that we would like for you to consider:

First, is the current speed of the traffic in this area, with people attempting to merge onto State Highway 71 from the hospital and clinic, with very fast moving vehicles.

Second, emergency vehicles needing to access the clinic and hospital, or leaving the hospital, have to contend with vehicles traveling at unnecessarily high speeds, making merging safely into traffic flow more dangerous, than a lower speed limit zone would provide.

Third, sight distance is poor, as there are two blind spots on the hill in that area. Vehicles moving at 70mph or more with drivers pulling out of the exits at the Hospital/Clinic are at risk of being involved in a collision, due to poor visibility, compounded by the current posted speed of those traveling on the highway.

We believe that the current posted speed limit of 70 MPH creates an unnecessarily hazardous condition and we would prefer to be proactive, not reactive, by hopefully preventing or reducing collisions and potential injuries at this location. The department feels as though a reduction of the speed limit to 55mph in front of the hospital and clinic on State Highway 71 is warranted.

AUG 14 2015

700 Avenue N • Marble Falls, Texas 78654
Phone: (830) 693-4060 • Fax: (830) 693-0210
jcaraway@ci.marble-falls.tx.us



We understand that your office has procedures to consider in this request. As public safety professionals, we strongly recommend a reduction of the current posted speed limit in this area.

The speed limit reduction in this area is critical for the safety of the citizens who have to access the clinic and/or hospital, as well as emergency responders who must enter or exit the hospital.

Based on these factors, we strongly recommend your office immediately consider a speed limit reduction in this area, as we feel a sense of urgency regarding this issue, this being a matter of public safety, health and welfare.

If you have any questions, please contact the Marble Falls Fire Department at 830-693-4060. Thank you for your consideration.

Best Regards

A handwritten signature in black ink, appearing to read "Johnny Caraway". The signature is fluid and cursive.

Johnny Caraway, CFE
Fire Chief/Emergency Management Coordinator
Marble Falls Fire Rescue

700 Avenue N • Marble Falls, Texas 78654
Phone: (830) 693-4060 • Fax: (830) 693-0210
jcaraway@ci.marble-falls.tx.us

ORDINANCE NO. 2016-O-08A

AN ORDINANCE OF THE CITY MARBLE FALLS, TEXAS, ZONING FOR TRAFFIC AND RATE OF SPEED THEREIN, ON SH-71 IN THE CITY LIMITS OF THE CITY OF MARBLE FALLS; DEFINING SPEEDING AND FIXING A PENALTY THEREFORE; DECLARING WHAT MAY BE A SUFFICIENT COMPLAINT IN PROSECUTIONS HEREUNDER; WITH A SAVING CLAUSE REPEALING CONFLICTING LAWS AND DECLARING AN EMERGENCY.

WHEREAS, Section 545.356 of the Texas Transportation Code provides that the governing body of a municipality has the same authority as the Texas Transportation Commission to alter by ordinance prima facie speed limits for highways within the municipality, based on the results of an engineering and traffic investigation; and

WHEREAS, the City of Marble Falls having conducted an engineering and traffic investigation, the City Council hereby finds that the prima facie maximum speed limit on certain portions of SH-71 should be reduced in order to protect the health, welfare, and safety of the City of Marble Falls and its citizens; and

WHEREAS, the City Council finds that the speed limits established herein shall be effective permanently or until a future engineering and traffic investigation determines the prima facie maximum speed limits should be revised; and

WHEREAS, the City Council hereby requests that the Texas Department of Transportation, or its designee, erect signs marking the maximum speed limits established herein; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARBLE FALLS, TEXAS: THAT

SECTION I. PREAMBLE

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.

SECTION II. AMENDMENTS

Except as herein amended the Marble Falls Code of Ordinances shall remain in full force and effect.

Section 25-91 (“Maximum limits”), Division 1, Article III, Chapter 25 of the Code of Ordinances is hereby amended to provide a new subsection (6), which shall read as follows:

(6) The maximum speed limits on SH-71 shall be as follows:

FOR EASTBOUND TRAFFIC

From 5,301 feet west of US 281, at mile point 2.254 (Marble Fall’s west city limit) to 2,239 feet east of US 281, at mile point 3.682 (Marble Fall’s east city limit), a distance of 1.428 miles, a prima facie maximum speed limit of 60 miles per hour.

FOR WESTBOUND TRAFFIC

From 2,239 feet east of US 281, at mile point 3.682 (Marble Fall’s east city limit) to 5,301 feet west of US 281, at mile point 2.254 (Marble Fall’s west city limit), a distance of 1.428 miles, a prima facie maximum speed limit of 60 miles per hour.

SECTION III. PENALTY

Any person found to have violated the provisions of this ordinance shall be guilty of a Class C Misdemeanor, punishable by a fine not to exceed Two Hundred dollars (\$200.00).

SECTION IV. REPEALER.

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

SECTION V. PROVIDING FOR SEVERABILITY.

If any provision, section, sentence, clauses or phrase of this Ordinance or application of same to any persons or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portion of this Ordinance or its application to other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Marble Falls in adopting, and the Mayor in approving this Ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provisions or regulation.

SECTION VI. EFFECTIVE DATE.

This ordinance shall be in full force and effect upon and after its date of adoption.

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.

PUBLIC HEARING AND FIRST READING OF ORDINANCE – AUGUST 2, 2016.

PASSED, APPROVED AND ADOPTED ON THIS, THE ___ DAY OF AUGUST, 2016.

CITY OF MARBLE FALLS:

John Packer, Mayor

ATTEST:

Christina McDonald, City Secretary
(Seal)

APPROVED AS TO FORM:

Patty Akers, City Attorney

August 2, 2016

7. REGULAR AGENDA

- (c) Discussion and Action regarding approval of the design contract between the City of Marble Falls and S.D. Kallman, LP for Phase 4 of the Water Treatment Plant Expansion project. **Eric Belaj, City Engineer**
-

Background information is attached as follows:

[Cover Memo and Supporting Documentation](#)



**Council Agenda Item Cover Memo
August 2, 2016**

Agenda Item No.: 7(c)
Presenter: Eric Belaj, PE, CFM
Department: Administration
Legal Review:

AGENDA CAPTION

Discussion and Action regarding approval of the design services contract with S.D. Kallman, LP, for Phase 4 of the Water Treatment Plant Expansion project.

BACKGROUND INFORMATION

The City's Water Treatment Plant (WTP) is permitted for a daily average flow of less than 3 million gallons per day (MGD). Continued growth in the City has demonstrated that the WTP requires additional treatment capacity.

TCEQ requires that whenever flow measurements reach 75% of the permitted treatment, the City must initiate engineering design for plant expansion. TCEQ also requires that whenever the flow reaches 90% of the permitted treatment capacity the City should be commencing construction on expansion of the treatment plant.

The City's WTP currently is treating over 2.5 million gallons per day, or 85% of the permitted treatment amount.

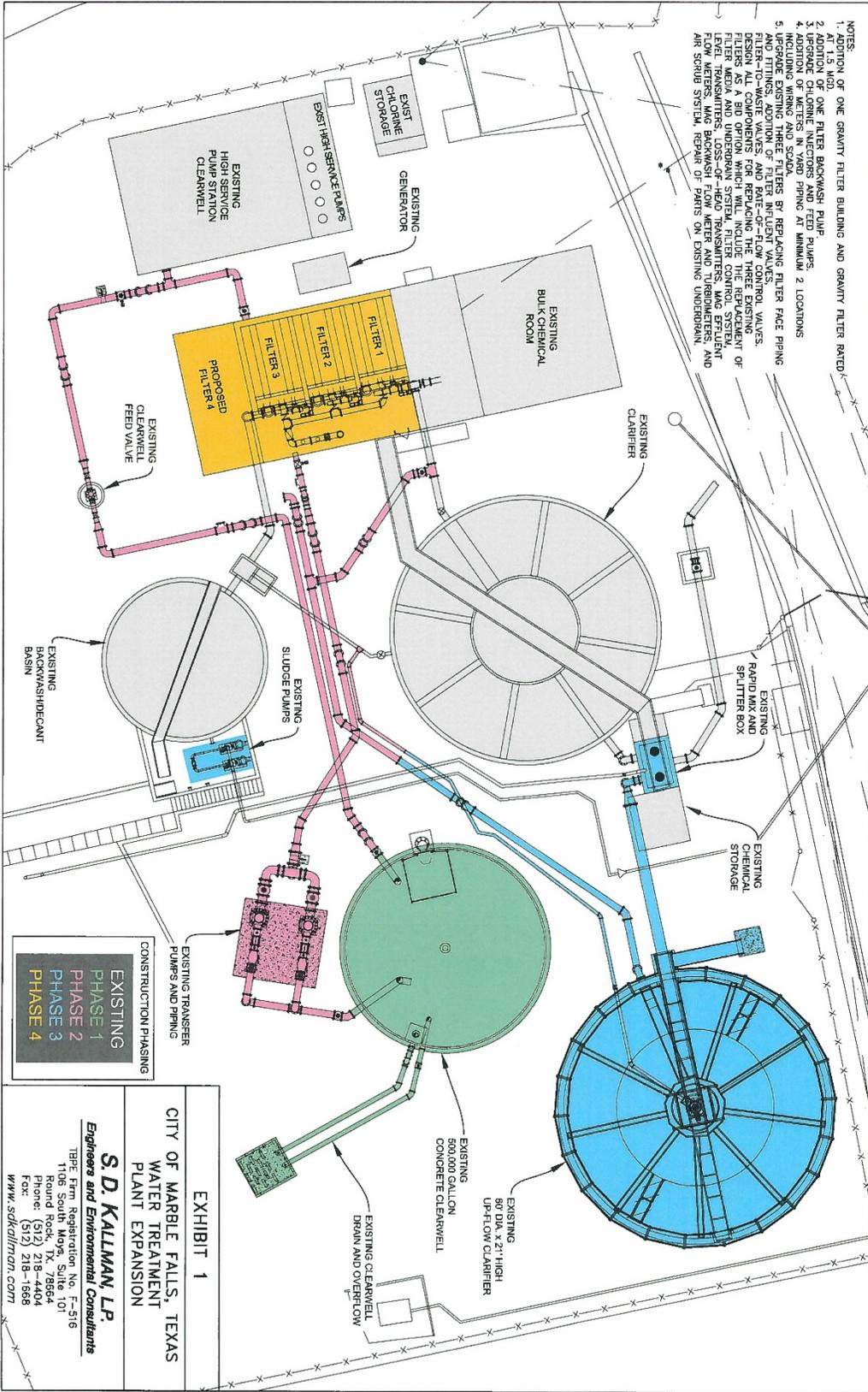
City staff has been working with an engineering consultant to identify viable courses of action. The planned expansion will increase the treatment plant's capacity from 3 MGD to 4.8 MGD. The current planned expansion is the fourth phase which will expand the plant building to add a fourth filter and rehabilitate the existing 3 filters. This expansion phase will also upgrade chlorine injectors and feed pumps, upgrade the raw water pump station to handle the additional capacity, filter influent & filter-to-waste upgrades, rate-of-flow control valves, filter control system and level transmitters, SCADA and major electrical wiring, and numerous other design items outlined in the engineering contract scope of work. The previous plant expansion phases added a Clarifier, 500K gallon clearwell, replacement and repairs to rapid mix, piping, pumps, and electrical work.

The engineering firm, SD Kallman, LP, (Engineer) has been working with City staff to identify improvement needs and to fine-tune a design scope. Per the submitted design scope, the Engineer will design all needed improvements to TCEQ standards, and

expand the plant to 4.8 MGD capacity. The Engineer will also prepare bid documents; assist during the bidding process, as well as construction administration duties and inspections. The Engineer has considerable treatment plant experience, and has designed many projects for the City in the past including the previous phases of WTP expansion.

The proposal to perform all duties to design, bidding, construction administration and inspections, as lined out in the contract scope, is \$394,000. City staff has reviewed the contract documents and recommend approval of this item.

[View contract.](#)



- NOTES:
1. ADDITION OF ONE GRAVITY FILTER BUILDING AND GRAVITY FILTER BATED
 2. AT 15 HGT, ONE FILTER BACKWASH PUMP
 3. UPGRADE CHLORINE INJECTORS AND FEED PUMPS.
 4. ADDITION OF METERS IN YARD PIPING AT MINIMUM 2 LOCATIONS
 5. INCLUDING WIRING AND SCADA
 6. REPAIR AND REPLACE FILTERS BY REPLACING FILTER FACE PIPING AND FITTINGS
 7. ADDITION OF FILTER INFLUENT VALVES, FILTER-TO-WASTE VALVES, AND RATE-OF-FLOW CONTROL VALVES, RESIN ALL COMPONENTS FOR REPLACING THE THREE EXISTING FILTER MEDIA AND UNDERDRAIN SYSTEM, FILTER CONTROL SYSTEM, LEVEL TRANSMITTERS, LOSS-OF-HEAD TRANSMITTERS, MAG EFFLUENT FLOW METERS, MAG BACKWASH FLOW METER AND TURBIDIMETERS, AND AIR SCRUB SYSTEM, REPAIR OF PARTS ON EXISTING UNDERDRAIN.

EXISTING TRANSFER PUMPS AND PIPING

CONSTRUCTION PHASING

- PHASE 1
- PHASE 2
- PHASE 3
- PHASE 4

EXHIBIT 1

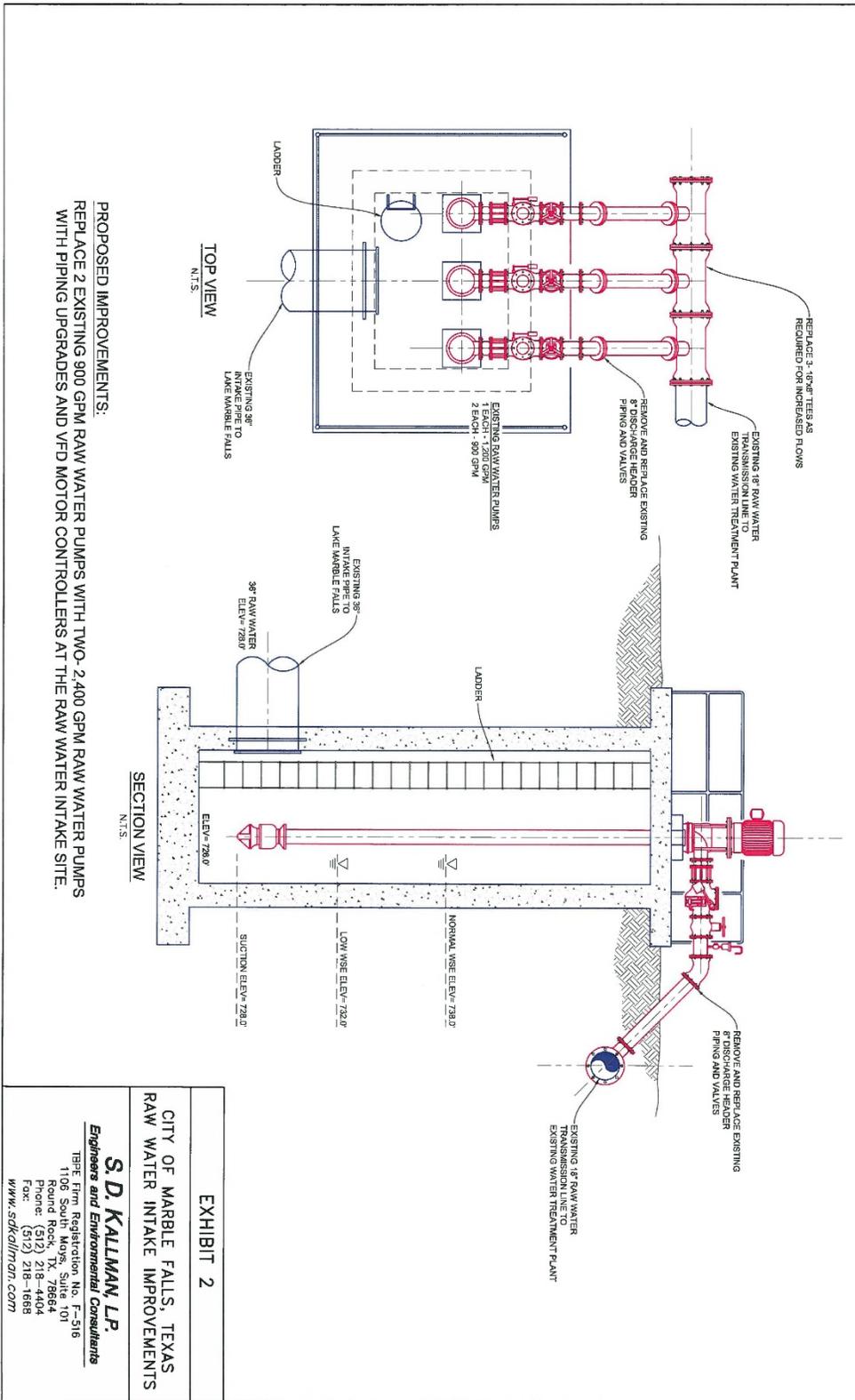
CITY OF MARBLE FALLS, TEXAS

WATER TREATMENT PLANT EXPANSION

S.D. KALLMAN LP

Engineers and Environmental Consultants

TYPE Firm Registration No. F-516
 1106 South Moys, Suite 101
 Round Rock, TX 78664
 Phone: (512) 218-4404
 Fax: (512) 218-1668
 www.sdcallman.com



THE STATE OF TEXAS §

CITY OF MARBLE FALLS

ENGINEERING SERVICES CONTRACT

COUNTY OF BURNET §

THIS CONTRACT is made and entered into this _____ day of August, 2016, by and between the City of Marble Falls, Burnet County, Texas, a home rule municipality, ("City"), and S. D. Kallman, L. P., ("Engineer"), whose address is at 1106 S. Mays, Suite 101, Round Rock, Texas 78664.

WITNESSETH:

That in consideration of the terms and conditions contained herein the parties do mutually agree as follows:

I.

Engineer and Services

Engineer shall perform all services under this Contract to the prevailing engineering professional standards consistent with the level of care and skill ordinarily exercised by members of the engineering profession, both public and private, currently practicing in the same locality under similar conditions, including reasonable, informed judgments and prompt, timely action. If Engineer is representing that he/she has special expertise in one or more areas to be utilized in this Contract, then Engineer agrees to perform those special expertise services to the appropriate local, regional or national professional engineering standards. Engineer shall provide the services related to the **Water Plant Expansion Phase-IV** ("Base Services") as generally described in the attached Exhibit A, which is incorporated herein for all purposes. Additional Services as defined below may also be required and such Base and Additional Services may be collectively referred to as the "Project".

If Engineer determines that services outside the scope of Exhibit A ("Additional Services") are required or recommended, or that Engineer is being asked by City to perform services not covered by Exhibit A or by previously approved amendments to this Contract, Engineer shall notify City that such services are Additional Services, the cost associated with their performance and shall receive approval to perform such Additional Services prior to undertaking them. Any provision in this Contract to the contrary notwithstanding, City shall not be liable to Engineer for the payment of any Additional Services, unless the City and Engineer have entered into a written amendment to this Contract which identifies the services to be performed as Additional Services, and states the cost, or a not-to-exceed amount, for such services prior to the commencement of such Additional Services. Additional Services shall be calculated at the professional rates listed in Exhibit B.

Engineer shall not commence work on this project until given written permission by the City via a Notice to Proceed (NTP). The City shall not be obligated to compensate engineer for any work done prior to the issuance of the NTP.

II.
Compensation to Engineer

COMPENSATION: City agrees to pay Engineer for all services outlined in Section I and as described in Exhibit A. Such services undertaken by Engineer shall be provided in accordance with the fees set forth in Exhibit B, attached hereto. Base Services performed by Engineer shall not exceed the lump sum fees described in Exhibit B. Additional Services will be performed by Engineer according to the hourly rates listed in Exhibit B.

Payments to Engineer will be made by City from invoices submitted by the Engineer and shall be based on the percentage of the work performed by Engineer on the Project as of the date of the invoice. Invoices shall itemize the services performed between Base Services, Additional Services and expenses, as applicable. Invoices shall not be submitted more frequently than one time per month. Invoices are due and payable thirty (30) days after receipt by the City.

III.
Timely Completion of Engineering Services.

The Engineer shall make all reasonable efforts to complete assigned engineering duties and tasks in a timely manner. For all services related to the Project, and on at least a Weekly Basis, the Engineer shall provide a Schedule of the tasks that have been completed and the percentage of the Project that is remaining, and any obstacles that may cause a delay in completing engineering services related to the Project.

IV.
Engineer's Coordination with Owner

Engineer shall be available for conferences with City so that the Project can be designed and managed with the full benefit of City's experience and knowledge of existing needs and facilities and be consistent with current policies and construction standards.

City shall make available to Engineer all existing plans, maps, field notes, and other data in its possession relative to the Project; including geotechnical exploration reports. If additional geotechnical exploration is needed the City will provide right of entry to the project site for field work performed by the geotechnical sub-consultant and will coordinate with sub-consultant to locate underground utilities in the vicinity of proposed boring locations.

Engineer may show justification to City for changes in design from City standards due to the judgment of said Engineer of a cost savings to City and/or due to the surrounding topographic and geological conditions. City shall make the final decision as to any changes after appropriate request by Engineer.

Engineer shall accompany City representatives on Project observation visits during construction of Project at appropriate frequencies to ensure the Project is progressing based on

Engineer's plans and specifications. City may require more frequent construction observation visits as construction problems arise as a result of Project design.

The City will assign a project identification number (PID) to this project. The PID shall be referenced on all correspondence and invoices pertaining to this project. This number shall also be indicated on the cover page and each subsequent page of the drawings. The City will assign a PID and notify the Engineer in conjunction with the NTP.

In conjunction with the bid process for construction of the Project the City shall receive and review bid documents from the Engineer, advertise for bids for the work, attend pre-bid conferences, attend bid opening, and award contract as required by state law. Engineers agrees to perform the duties relative to contract and construction documents in accordance with Exhibit "A".

The Engineer shall be a representative of the City during the Construction Phase, and shall advise and consult with the City. Instructions to the Contractor shall be forwarded through the Engineer. The Engineer shall have authority to act on behalf of the City only to the extent provided in this Agreement. On the basis of on-site observations The Engineer shall keep the City informed of the progress and quality of the Work, promptly notify the City of problems or potential problems, and shall endeavor to guard the City against defects and deficiencies in the Work of the Contractor. The City shall arrange meetings with the Engineer as needed, and provide all pertinent available data as requested including any available historical information related to City's water utility. Engineer and City shall meet at City offices to review design deliverables. The City shall provide timely review of design documents and provide Engineer with review comments. During the construction phase, the City shall attend pre-construction conferences, construction progress meetings, walk-through inspections of the Work, provide clarifications regarding existing features and work as necessary, operate existing utilities as required to assist Contractor's work, process applications for payment and change orders as needed, provide construction materials testing for the Work and provide on-site inspection of the construction work.

The Engineer shall render interpretations necessary for the proper execution or progress of the Work with reasonable promptness on written request of either the City or the Contractor, and shall render written decisions, within a reasonable time, on all claims, disputes and other matters in question between the City and the Contractor relating to the execution or progress of the Work or the interpretation of the Contract Documents. Interpretations and decisions of the Engineer shall be in written or graphic form.

The Engineer shall promptly notify the City in writing of Work that does not conform to the Contract Documents, and recommend rejection or other appropriate action. If in the Engineer's opinion, special inspection or testing of the Work is advisable or necessary, the Engineer shall recommend that the City require such inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work has been fabricated, installed, or completed.

The Engineer shall review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, product data and samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract

Documents. Engineer shall make City aware of all substantive deviations. The Engineer's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the construction of the City or of separate contractors, while allowing sufficient time in the Engineer's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractor, all of which remain the responsibility of the Contractor to the extent required by the Contract Documents. The Engineer's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Engineer, of construction means, methods, techniques, sequences or procedures. The Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

When professional certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, the Engineer shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents, unless the Engineer has actual knowledge to the contrary.

The issuance of an Application for Payment, signed by the Engineer, shall constitute a representation by the Engineer to the City that the Work has progressed to the point indicated; that, to the best of the Engineer's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents and that the Contractor is entitled to payment in the amount certified. However, such issuance shall not be a representation that the Engineer has 1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; 2) reviewed construction means, methods, techniques, sequences or procedures; or 3) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Amount.

The Engineer shall prepare Change Orders for the City's approval and execution in accordance with the Contract Documents, and shall have authority to order minor changes in the Work which are consistent with the intent of the Contract Documents, but do not involve an adjustment to the Contract Amount or an extension of the Contract Time.

Upon receipt of notification by the Contractor that the Work has been substantially completed, the City, Contractor, and Engineer and its sub-consultants shall conduct an on-site review and prepare a list of corrections needed to render the Project substantially completed.

V.

Contract Termination Provision

This Contract may be terminated at any time by City for any cause without penalty or liability except as may otherwise be specified herein. Upon receipt of written notice by City, Engineer shall immediately discontinue all services and Engineer shall immediately terminate placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this Contract and shall proceed to cancel promptly all existing contracts insofar as they are related to this Contract. As soon as practicable after receipt of notice of termination, Engineer shall submit a statement showing in detail the services performed but not paid for under

this Contract to the date of termination. City shall then pay Engineer promptly the accrued and unpaid services to the date of termination, to the extent the services are approved by City.

This contract may be terminated by Engineer with mutual consent of City at any time for any cause without penalty or liability except as may otherwise be specified herein. Engineer shall submit written notice to terminate contract and shall submit to City all plans and documents relative to the design of Project. City shall then ascertain cost to complete the balance of the work under this Contract. If the cost to complete the balance of the work is greater than the unpaid contract amount, City shall retain all unpaid balances and, in addition, Engineer shall pay directly to City the difference in the unpaid balance and the cost to complete the work. In no case shall City pay Engineer any additional monies other than those previously paid under the Contract.

VI.
Ownership of Documents

All drawings and specifications prepared or assembled by Engineer under this Contract shall become the sole property of City and shall be delivered to City, without restriction on future use. Drawings and specifications shall be submitted to City in both hard copy and electronic formats. Engineer shall retain in his files all original drawings, specifications and all other pertinent information for the work. Engineer shall have no liability for changes made to the drawings, specifications, and other documents by other engineers subsequent to the completion of the contract. City shall require that any such change be sealed, dated, and signed by the engineer making that change and shall be appropriately marked to reflect what was changed or modified.

VII.
Insurance

The Engineer shall procure, pay for, and maintain during the term of this Contract, with a company authorized to provide insurance in the State of Texas and otherwise acceptable to the City, the minimum insurance coverage contained in Exhibit C, attached hereto and made a part of this Contract.

VIII.
Monies Withheld

When City has reasonable grounds for believing that:

- A. Engineer will be unable to perform this Contract fully and satisfactorily within the time fixed for performance; or
- B. A claim exists or will exist against Engineer or City arising out of the negligence of the Engineer or the Engineer's breach of any provision of this Contract; then

City may withhold payment of any amount otherwise due and payable to Engineer under this Contract. Any amount so withheld may be retained by City for that period of time as it may deem advisable to protect City against any loss and may, after written notice to Engineer, be applied in

satisfaction of any claim described herein. This provision is intended solely for the benefit of City, and no other person or entity shall have any right or claim against City by reason of City's failure or refusal to withhold monies. No interest shall be payable by City on any amounts withheld under this provision. This provision is not intended to limit or in any way prejudice any other right of City.

IX.

No Damages for Delays

Notwithstanding any other provision of this Contract, Engineer shall not be entitled to claim or receive any additional compensation as a result of or arising out of any delay, hindrance, disruption, force majeure, impact or interference, foreseen or unforeseen.

X.

Right to Inspect Records

Engineer agrees that City shall have access to and the right to examine directly any pertinent books, documents, papers and records of Engineer involving transactions relating to this Contract. Engineer agrees that City shall have access during normal working hours to all necessary Engineer facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. City shall give Engineer reasonable advance notice of intended audits.

Engineer further agrees to include in subcontract(s), if any, a provision that any subcontractor or consultant agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of such consultant or subcontractor involving transactions to the subcontract, and further, that City shall have access during normal working hours to all consultant or subcontractor facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this paragraph. City shall give the consultant or subcontractor reasonable advance notice of intended audits.

XI.

No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (City and Engineer) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with City or Engineer or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either City or Engineer.

XII.

Successors and Assigns

City and Engineer each bind itself and their respective successors, executors, administrators and assigns to the other party of this Contract and to the successor, executors, administrators and assigns of such other party in respect to all covenants of this Contract. Neither City nor Engineer shall assign or transfer its interest herein without the prior written consent of the other.

XIII. Engineer's Liability

Acceptance of the final plans by City shall not constitute nor be deemed a release of the responsibility and liability of Engineer, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by City for any defect in the designs, working drawings, specifications, or other documents and work; nor shall such acceptance be deemed an assumption of responsibility or liability by City for any defect in the designs, working drawings, specifications, or other documents prepared by said Engineer, its employees, subcontractor, agents and consultants.

With regard to engineering services related to the construction phase of the Project, the Engineer shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility under the Contract for construction. The Engineer shall not be responsible for the Contractor's schedules or failure to carry out the Work in accordance with the Contract Documents. The Engineer shall not have control over or charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work. However, nothing in this subsection is intended to relieve Engineer of liability for delays occasioned by Engineer, its employees or sub-consultants or errors or deficiencies in the Work or services provided by The Engineer under this Agreement. The Engineer's notification to the City regarding Contractors' corrections of any deficiencies related to the Work shall not be construed as an implied or express warranty or representation by the Engineer, that the deficiencies have been corrected or that there are no other deficiencies on the Project.

XIV. Indemnification

To the fullest extent permitted by law, Engineer shall and does hereby agree to indemnify and hold harmless the City of Marble Falls, its officers, agents, and employees from any and all damages, loss or liability of any kind, whatsoever, by reason of death or injury to property or third persons to the extent caused by the negligent omission or negligent act of Engineer, its officers, agents, employees, invitees or other persons for whom it is legally liable, with regard to the performance of this Contract, and Engineer shall, at its cost and expense, defend, pay on behalf of, and protect the City of Marble Falls and its officers, agents, and employees against any and all such claims and demands.

XV.
Severability

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XVI.
Conflict of Interest

A. Chapter 176 of the Local Government Code requires businesses conducting business activity with the City to file a “Conflict Disclosure Statement,” and the Engineer shall complete such Statement and it shall be on file with the City, with the Statement to be updated as necessary.

B. The Engineer, when performing all services under this Contract, shall devote itself to the engineering duties and services required by the City. A “conflict of interest” condition exists when another Client of the Engineer proposes that the Engineer engage in engineering services for a project or development that is under the auspices and authority of the City of Marble Falls and such development will connect to or prosper from the Project that is the subject of this Contract. The Engineer shall refrain from those situations that create an actual conflict of interest or the appearance of same. However, if such a situation is unavoidable, then Engineer shall withdraw from this Contract so that City can identify and utilized another Engineer without delay or hindrance.

XVII.
Gift to a Public Servant

The City may immediately terminate this Contract if the Engineer offers or agrees to confer any benefit on a City employee or official that the City employee or official is prohibited by law from accepting. “Benefit” means anything reasonably regarded as pecuniary gain or pecuniary advantage; “Benefit” does not mean purchase, by the Engineer, of a meal (breakfast, lunch, or dinner) for employee or official in the course of regular business activity. Notwithstanding any other legal remedies, City may require Engineer to remove any employee of Engineer from the Project who has violated the restrictions of this section or any similar State or Federal Law, and obtain reimbursement for any expenditures made as a result of the improper offer, contract to confer, or conferring of a benefit to a City employee or official.

XVIII.
Governing Law and Legal Construction

A. This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state.

B. In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Contract, and this Contract shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Contract.

XIX.

Independent Contractor

Engineer covenants and agrees that he/she is an independent contractor, and not an officer, agent, servant or employee of City; that Engineer shall have exclusive control of and exclusive right to control the details of the work performed hereunder, and all persons performing same, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and Engineer, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Engineer.

XX.

Disclosure

By signing this Contract, Engineer acknowledges to City that he/she has made a full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interests, direct or indirect, in property abutting the proposed Project and business relationships with abutting property owners. Engineer further agrees that he shall make disclosure in writing of any conflicts of interests which develop subsequent to the signing of this Contract and prior to final payment under the contract.

XXI.

Venue

The parties to this Contract agree and covenant that this Contract shall be enforceable in Marble Falls, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue shall lie in Burnet County, Texas.

XXII.

Entire Contract

This Contract embodies the complete Contract of the parties hereto, superseding all oral or written previous and contemporary Contracts between the parties relating to matters herein; and except as otherwise provided herein, cannot be modified without written contract of the parties.

XXIII.
Applicable Law

This Contract is entered into subject to the Charter and ordinances of City, as they may be amended from time to time, and is subject to and is to be construed, governed, and enforced under all applicable State of Texas and federal laws. Situs of this Contract is agreed to be Burnet County, Texas, for all purposes, including performance and execution.

XXIV.
Default

If at any time during the term of this Contract, Engineer shall fail to commence the work in accordance with the provisions of this Contract or fail to diligently provide services in an efficient, timely, and careful manner and in strict accordance with the provisions of this Contract or fail to use an adequate number or quality of personnel or equipment to complete the work or fail to perform any of its obligations under this Contract, then City shall have the right, if Engineer does not cure any such default after thirty (30) days written notice thereof, to terminate this Contract and complete the work in any manner it deems desirable, including engaging the services of other parties therefor. Any such act by City shall not be deemed a waiver of any other right or remedy of City. If after exercising any such remedy, the cost to City of the performance of the balance of the work, as defined in Exhibit A, is in excess of that part of the Contract sum which has not therefore been paid to Engineer hereunder, Engineer shall be liable for and shall reimburse City for such excess.

XXV.
Headings

The headings of this Contract are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

XXVI.
Non-Waiver

It is further agreed that one (1) or more instances of forbearance by City in the exercise of its rights herein shall in no way constitute a waiver thereof.

XXVII.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but, each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

XXVIII.
Equal Employment Opportunity

Engineer shall not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, ancestry, national origin, place of birth or disability. Engineer shall take action to ensure that applicants are employed and treated without regard to their race, age, color, religion, sex, ancestry, national origin, place of birth or disability. This action shall include, but not be limited to: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship.

XXIX.
Construction of Contract

Both parties have participated fully in the review and revision of this Contract. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Contract.

XXX.
Notices

All notices, communications, and reports required or permitted under this Contract shall be personally delivered or mailed to the respective parties by depositing same in the United States mail, postage prepaid, at the addresses shown below, unless and until either party is otherwise notified in writing by the other party, at the following addresses. Mailed notices shall be deemed communicated as of five (5) days after mailing regular mail.

If intended for City, to:

City of Marble Falls
City Manager
800 Third Street
Marble Falls, Texas 78654

If intended for Engineer, to:

Steve Kallman, P.E.
S. D. Kallman, L.P.
1106 S. Mays, Suite 101
Round Rock, Texas 78664

XXXI.

Warranty

To the extent allowed by law, Engineer warrants that all work will be performed to the professional services standard indicated in Section I. of this Contract.

XXXII.

Attorney Fees

In the event any party to this Contract should bring suit against the other party with respect to any matters provided for in this Contract, the prevailing party shall be entitled to recover from such other party its costs of court, legal expenses and reasonable attorneys' fees in connection with such suit.

Balance of Page intentionally left blank

IN WITNESS WHEREOF, the parties enter into this Contract on the date first written above.

WITNESS:

S.D. KALLMAN, L.P.

BY: _____

Printed or Typed Name

Printed or Typed Title

Tax Identification No.

ATTEST:

CITY OF MARBLE FALLS, TEXAS:

, City Secretary

BY: _____

Printed or Typed Name

Printed or Typed Title

THE STATE OF TEXAS §

Engineer Acknowledgment

COUNTY OF §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act of _____, a corporation of _____ County, Texas, and as _____ thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 20____.

(SEAL)

Notary Public in and for the State of Texas

Notary's Printed Name

My Commission Expires: _____

THE STATE OF TEXAS §

Municipal Acknowledgment

COUNTY OF BURNET §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act of the City of Marble Falls, Texas, a Texas municipal corporation, and as the _____ thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 20____.

(SEAL)

Notary Public in and for the State of Texas

Notary's Printed Name

My Commission Expires: _____

EXHIBIT "A"



SCOPE OF WORK

FOR

WATER PLANT EXPANSION
PHASE -IV

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**DESIGN SCOPE
FOR
WATER PLANT EXPANSION PHASE-IV**

1. INTRODUCTION

This proposal is for professional engineering services related to preliminary engineering, final design, bidding assistance, and construction administration for Water Plant Expansion Phase Four project, of the City of Marble Falls.

2. BACKGROUND

During a peak day the current WTP treats approximately 93% capacity. Per the LCRA contract, the City must follow TCEQ rules regarding treatment. Expansion of the WTP was decided due to the LCRA agreement, limiting available capacity, and also to accommodate ongoing development in the City. Upgrade to the existing Water Treatment Plant (WTP) from 3.02 million gallons per day (MGD) capacity to minimum 4.85 MGD. The new improvements to the plant are the addition of a Clarifier, 500K gallon clearwell, replacement and repairs to rapid mix, piping, pumps, and electrical which were done on construction phases 1-3. This scope of work is for Phase 4 which details are encompassed below.

3. ENGINEERING DESIGN

3.1 Survey

S.D. KALLMAN, L.P. (hereinafter “The Engineer”) if needed, will employ the services of a Texas Licensed Land Surveyor to perform a topographic survey for design of the affected area. Previous on-the survey was performed by Willis Surveying and Mapping; survey which in turn is made available to the Engineer. No additional survey is anticipated for the design of this project. However, the Engineer has the option to retain additional surveying services at no cost to the City.

The Engineer shall make available to the City CAD file(s) of the survey.

3.2 Geotechnical Engineering

The City has employed the services of a geotechnical engineering sub-consultant that has provided field borings and laboratory services to assist design and construction of structures for this project. Engineer will analyze the geotechnical field data provided by the geotechnical sub-consultant to characterize subsurface conditions for prospective bidders and help determine the appropriate structural design criteria to be used during the design phase. The engineer will encompass the geotechnical field data and final report, provided by the geotechnical sub-consultant, to design the improvements. The Engineer shall also include the geotechnical report with the bid documents.

3.3 Preliminary Design

Engineer shall prepare preliminary design for this project and submit to the City for review. Preliminary design shall be considered a 20% completed design. The Engineer shall assure that the performed design work matches the topographic survey, and make necessary adjustments as follows:

1. Prepare project schedule.
2. Define the building footprint.

3. Identify major components that require re-design.
4. Identify design component determined by the previously issued technical memorandum.
5. Prepare drawings and submit to City for review and discussion.

3.4 Final Design

The Engineer will refine design criteria and recommendations developed during preliminary engineering as necessary in order to develop final drawings and specifications for this project. The drawings and specifications will indicate the scope, extent, and character of the work to be performed and furnished by a Contractor. The Engineer will furnish 60% drawings and 90% drawings and specifications for review by the City. The Engineer will conduct meetings with the City to review 60% and 90% deliverables, and the design documents will be revised in accordance with comments and instructions from the City, as appropriate.

The design components below reference the individual project items of the 2016 Water and Wastewater Master Plan. Components to be designed are but not limited to the following:

1. Addition of One Gravity Filter Building and Gravity Filter Rated at 1.5 MGD
2. Addition of One Filter Backwash Pump
3. Replace 2 Existing Raw Water Pumps with Two – 2400 GPM Raw Water Pumps with Piping Upgrades and VFD Motor Controllers at the Existing Raw Water Intake Site
4. Upgrade Chlorine Injectors and Feed Pumps
5. Addition of Meters in Yard Piping at Minimum 2 Locations including Wiring and SCADA
6. Upgrade Existing 3 Filters by Replacing Filter Face Piping and Fittings, Addition of Filter Influent Valves, Filter-to-Waste Valves, and Rate-of-Flow Control Valves. Engineer will design all components for replacing the 3 Existing Filters as a bid option which include the Replacement of Filter Media and Underdrain System, Filter Control System, Level Transmitters, Loss-of-Head Transmitters, Mag Effluent Flow Meters, Mag Backwash Flow Meter and Turbidimeters, and Air Scrub System, Repair of Parts on Existing Underdrain.
7. Structural, Electrical, Control System, Mechanical, Civil Design Services for above Improvements.

Regulatory Notification: Engineer will prepare and submit a project summary letter to the Texas Commission on Environmental Quality (TCEQ) in accordance with the state regulations, which states that the letter notification shall be submitted to TCEQ prior to construction. The TCEQ notification should be finalized and submitted at the completion of 90% Drawings and Specifications. A TCEQ plan review is anticipated for this project, and any comments as a result thereof should be addressed prior to issuance for bid. Should the TCEQ exercise its right to request additional detailed plan review, Engineer will submit final plans, specifications and engineering design criteria to the TCEQ accordingly on behalf of the City.

4. BIDDING ASSISTANCE

Following 90% review, the Engineer will furnish final bidding documents and assist the City in the preparation of other related documents (if any). The Engineer shall furnish bid documents along with project specifications. The drawings along with the specifications will indicate the scope, extent, and character of the work to be performed and furnished by a Contractor. The Engineer shall incorporate the City of Marble Falls Standard Specifications (specs) as much as practical. For items not included in the aforementioned specs, The Engineer shall incorporate other standard engineering specifications in the design.

The Engineer will prepare the opinion of probable construction cost for the project based on the most up-to-date design information and advise the City promptly and in writing of any adjustments to construction cost known to the Engineer. Each deliverable will receive an internal quality assurance and quality control review prior to submittal to the City.

The Engineer will prepare bid documents and assist in advertising for and obtaining bids for the work and, where applicable, maintain a record of prospective bidders to whom bidding documents have been issued, attend a pre-bid conference, and receive and process contractor deposits or charges for the bidding documents. Bidding document charges shall be no more than \$75 per set.

The Engineer will assist the City of Marble Falls, Texas in posting notice in the local newspaper about the project, as well as the local trade distributors i.e; American General Contractors, Dodge Room and others Trade Journals.

The Engineer will respond to bidder questions and issue addenda as appropriate to clarify the bidding documents and where applicable, maintain a record of prospective bidders to whom bidding documents have been issued, attend a pre-bid conference, and receive and process contractor deposits or charges for the bidding documents. Engineer will respond to bidder questions and issue addenda as appropriate to clarify the bidding documents. The Engineer will also attend the bid opening, prepare bid tabulation sheets, and assist the City in evaluating bids and in assembling and awarding contracts for the work. The Engineer will review those bids and make recommendations as to the most qualified responsive bidder.

The Engineer will prepare the construction contracts and documents for the contractor and City of Marble Falls to sign. Engineer will review and verify Contractor's bond and insurance documents and confirm with the City their validity.

5. CONSTRUCTION ADMINISTRATION

The Engineer shall be responsible for making sure that the payment and performance bonds and insurance certificate(s) required by the Bid and Contract Documents have been provided to and approved by City prior to the commencement of construction.

5.1 Construction Assistance

The Engineer will consult with the City and act as the City's representative as provided herein. The Engineer will participate in a pre-construction conference prior to commencement of work at the project site; prepare and print up to 6 half-sized and 3-full sized sets of conformed construction documents; receive, review, and determine the acceptability of any and all schedules that the Contractor is required to submit to the Engineer, including the progress schedule, schedule of submittals, and schedule of values; make site visits at intervals appropriate to the various stages of construction (averaging once per month for anticipated 9 month construction duration), as Engineer deems necessary, to observe the progress and quality of Contractor's executed work; issue necessary clarifications and interpretations of the contract documents (RFIs) as appropriate to the orderly completion of Contractor's work; recommend change orders and work change directives to the City, as appropriate, and prepare change orders and work change directives as required; review and approve or take other appropriate action in respect to shop drawings and samples and other data that Contractor is required to submit (up to 60 submittals anticipated); evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor; require such special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required; render formal written decisions on all duly

submitted issues relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution, performance, or progress of Contractor's work; review applications for payment and accompanying supporting documentation from Contractor, and recommend appropriate payment to Contractor; receive, review, and transmit to the City maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the contract documents; promptly after notice from Contractor that Contractor considers the entire work ready for its intended use, in company with the City and Contractor, conduct an inspection to determine if the work is substantially complete; prepare preliminary and final punch lists, and conduct final inspection of the work; review and compile as-recorded drawings as received from the Contractor, and produce as-recorded drawings for the City.

The Engineer will work closely with Holt Engineering a geotechnical testing company from Austin, Texas to evaluate the construction quality as well as the construction materials installed on the project.

Inspections: The Engineer shall record observations made on each job site visit and shall submit a report to the City. In addition, the Engineer's sub-consultants shall visit the site at appropriate stages of the Work related to their area of specialty, shall record observations made on each job site visit and shall submit reports to the Engineer and to the City through the Engineer. The Engineer will make at least twice weekly inspections at 8-hrs minimum allocated for site inspection, and review the monthly pay request and approve the contractor's quantities for payment. Inspection services shall be done by a qualified, experienced individual will be provided as noted above, or more frequently as necessary for critical construction activities. Inspector shall maintain a log of items inspected each inspection day and submit to the City on a monthly basis prior to the Contractor's application for payment.

Engineer shall record observations made on each job site visit and shall submit a report to the City. Engineer's inspector shall maintain an inspection log, noting items inspected during the inspection. In addition, the Engineer's sub-consultants shall visit the site at appropriate stages of the Work related to their area of specialty, shall record observations made on each job site visit and shall submit reports to the Engineer and to the City through the Engineer.

Reports, if handwritten, shall be written legibly; typed reports are preferred. Information reported shall reflect to the best of the Engineer's or sub-consultants' knowledge, information and belief, the following: trades at work, approximate manpower, temperature/weather conditions, variations from Contract Documents, defective work, percentage of contract time used compared with percentage of completion of construction, contract completion date, and other meaningful information. Reports for periods when no Work is in progress shall state "No Work in Progress."

Upon receipt of notification by the Contractor that the Work has been substantially completed, the City, Contractor, and Engineer and its sub-consultants shall conduct an on-site review and prepare a list of corrections needed to render the Project substantially completed. After the Contractor has performed the corrections, the Engineer shall notify the City in writing that the Work has been substantially completed. The Engineer shall review all warranties, guarantees, bonds, equipment operating instructions, and similar required material and documents for general compliance with the Contract Documents and shall present them to the City. The Engineer will also review the final pay request along with all release of lien's from the contractor and his subcontractors for final payment. After ascertaining that requirements of the Contract Documents have been met, and the City has no additional corrections or repairs required to be performed, the Engineer shall prepare and issue a Certificate of Substantial Completion stating that the Project is in substantial compliance with the requirements of the Contract Documents.

Upon receipt by the Engineer of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment from the Contractor, the Engineer will promptly make an on-site review and, when the Work is found to be acceptable under the Contract Documents and the Contract fully performed, the Engineer will promptly sign the final Application for Payment certifying that the Work has been completed in general accordance with the terms and conditions of the Contract Documents and that final payment is due the Contractor. The Engineer shall require each engineer who prepares plans for the Project to certify, at the appropriate stage, that the Work has been performed in accordance with the engineer's plans.

Upon receipt from the Contractor of details of deviations from Contract Documents, which have been determined by the Engineer to be comprehensive and generally accurate, Engineer shall produce within thirty (30) days record documents for the City's use. The Engineer cannot and does not warrant the accuracy of the information provided by the Contractor.

After construction is complete the Engineer shall deliver to the city as-recorded drawings. The City requires the designer, to submit electronic record drawings (PDF format) to the City within 30 days of project completion. Record drawings shall reflect any changes or completed construction that differs from City approved drawings. The Engineer may submit record drawings containing field changes hand marked with red ink. In such case the drawings are to be accompanied with a signed letter that the field corrected markups are accurate and accurately depict as built conditions. The red ink hand marked drawings affected cannot exceed 20% of the pages from a set of drawings, otherwise a clean re-drafted and corrected set of drawings shall be submitted as record drawings.

5.2 Warranty Period Assistance

Under Basic Services, the Engineer shall assist and represent the City through the one year warranty period on matters involving malfunctions or deficiencies of the Work. The Engineer shall communicate with and assist the Contractor as necessary to correct all deficiencies in a timely manner and to reduce inconvenience to the City during this period. The Engineer agrees to require its sub-consultants (if any) to provide their assistance as necessary during the warranty period.

The scope of assistance referenced in this Section shall include, but not be limited to, the following: (1) Notifying the Contractor of deficiencies or failures in labor and materials and requesting corrective action; (2) Preparing correspondence and other written data as necessary to document, clarify, and resolve discrepancies; and (3) Meeting with the Contractor at the Project site or other local places when requested by the City.

The Engineer shall accomplish an on-site review of the Work accompanied by its sub-consultants, if applicable, approximately one month before the one year anniversary of the date of Substantial Completion.

As a result of this on-site review, the Engineer shall prepare a list of items needing correction and request the Contractor to resolve them. After reviewing the Contractor's corrective actions and determining that deficiencies have been corrected, the Engineer shall so notify the City in writing. The Engineer shall provide in any draft contract prepared for the construction of the Project that the notice described in this subsection shall not release the Contractor from its responsibilities set forth in the Contract Documents. Under Basic Services, the Engineer and its sub-consultants agree to provide a total of twenty (20) hours for warranty period services. The Engineer shall provide accounting for time expended under Basic Services at the time these services are provided. Additional time for warranty period services shall be considered Additional Services in accordance with the Agreement.

6. ENGINEERING FEE

The Engineer shall provide the preliminary engineering, final design, bidding assistance and construction administration services described above for a lump sum fee of **\$394,000**. The following table itemizes the estimated fees for each project task.

Task	Fee
20% Design (Schematic)	\$ 45,000
60% Design	\$ 85,000
Final Design and Specification	\$ 110,000
Engineering Design Report	\$ 16,500
Surveying	\$ -
Geotechnical	\$ -
Subtotal	\$ 256,500
Bidding Assistance	
Bidding	\$ 20,000
Construction Administration	\$ 49,300
Inspection Services	\$ 59,000
Operation and Maintenance Manual	\$ 9,200
Total	\$ 394,000

After the Notice to Proceed design is issued, this project shall have a 16 month project duration, which includes 5 months for design, 2 months for bidding process, and 9 months to construct the project.

Items not included in this work but are available from the Engineer at an hourly rate are:

1. Services related to construction materials testing.
2. Coordination with nearby property owners and/or general public.

EXHIBIT "B"

Any additional services not covered in the current scope of work, shall be performed by the Consultant, and will be compensated only after an amendment to this contract has been agreed upon in writing between the Consultant and the City of Marble Falls, Texas.

Bill Rate Schedule
July 2016

Resource Category	Standard Hourly Bill Rate
Principal Engineer	\$ 150.00
Engineering Professional VI	\$ 130.00
Engineering Professional IV	\$ 125.00
Engineering Professional III	\$ 120.00
Engineering Professional II	\$ 115.00
Project Manager	\$ 110.00
Engineer II (EIT)	\$ 85.00
Resident Project Inspector	\$ 75.00
CAD Technician	\$ 75.00
Administrative Assistant	\$ 65.00
Mileage (per Mile)	\$ 0.55

Services of authorized specialized sub-consultants or technicians will be invoiced to you at cost plus 10%.

Reimbursable expenses such as reproduction, printing, fax and long distance telephone work will be invoiced to the City at cost.

Rates are subject to change during January each year, a minimum of one year after signing of the contract, and will be submitted annually thereafter for Owner's review and acceptance.

EXHIBIT "C"

INSURANCE

A. Engineer shall provide the following insurance coverage :

- 1 Workers' Compensation and Employers' Liability Insurance coverage with limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Art. 8308-1.01 et seq. Tex. Rev. Civ. Stat.) or proof of compliance with the State of Texas' Workers Compensation Act (2009) for self-insured employers. The Engineers policy shall apply to the State of Texas and include these endorsements in favor of the City:
 - (a) Waiver of Subrogation, form WC 420304.
 - (b) 30 day Notice of Cancellation, form WC 420601.

- 2 Commercial General Liability Insurance with a minimum combined bodily injury and property damage per occurrence limit of \$1,000,000, and \$2,000,000 annual aggregate for coverages A & B. The policy shall contain the following provisions:
 - (a) Blanket contractual liability coverage for liability assumed under this Contract and all contracts relative to this Project.
 - (b) Independent Sub-consultants' coverage.
 - (c) City listed as an additional insured, endorsement CG 2010.
 - (d) 30 day Notice of Cancellation in favor of the City, endorsement CG 0205.
 - (e) Waiver of Transfer Right of Recovery Against Others in favor of the City, endorsement CG 2404.

- 3 Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a combined single limit of \$1,000,000 for each accident. The policy shall contain the following endorsements in favor of the City: The policy should name the city as an additional insured with the riders attached as described below.
 - (a) Waiver of Subrogation endorsement TE 2046A.
 - (b) 30 day Notice of Cancellation endorsement TE 0202A.

- 4 Engineers Professional Liability Insurance with a minimum limit of one million (1,000,000) dollars per claim and in aggregate to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any negligent act, error, or omission committed or alleged to have been committed with respect to plans, maps, drawings, analyses, reports, surveys, change orders, designs or specifications prepared or alleged to have been prepared by the insured. The policy shall provide for 30 day notice of cancellation in favor of the City.

B. GENERAL REQUIREMENTS

- 1 The Engineer must complete and forward the City's standard certificate of insurance to the City before the Contract is executed, as verification of coverage. The Engineer shall not commence services until the required insurance has been obtained and until such insurance has been reviewed by the City's Representative. Approval of insurance by the City shall not relieve or decrease the liability of the Engineer hereunder and shall not be construed to be a limitation of liability on the part of the Engineer.

- 2 Applicable to all insurance policies: If coverage is underwritten on a claims-made basis, the retroactive date shall be coincident with or prior to the date of this Contract and the certificate of insurance shall state that the coverage is claims made and the retroactive date. The Engineer shall maintain continuous coverage for the duration of this Contract and for not less than twenty-four (24) months following substantial completion of the Project. Coverage, including any renewals, shall have the same retroactive date as the original policy applicable to the Project. The Engineer shall, on at least an annual basis, provide the City with a certificate of insurance as evidence of such insurance.

- 3 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the certificate of insurance shall indicate the name of the City Manager at the Marble Falls City Hall address:

- 4 The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in this Contract, covering both the City and the Engineer, shall be considered primary coverage as applicable.

- 5 If insurance policies are not written for amounts specified above, the Engineer shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

- 6 The City shall be entitled, upon request and without expense, to receive certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

7 The City reserves the right to review the insurance requirements set forth during the effective period of this Contract and to make reasonable adjustments to insurance coverage, limits and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Engineer.

8 The Engineer shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

9 The Engineer shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the certificate of insurance.

10 The Engineer shall provide the City thirty (30) days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

11 The insurance coverages required under this Contract are required minimums and are not intended to limit the responsibility or liability of the Engineer.

August 2, 2016

7. REGULAR AGENDA

- (d) Discussion and Action on setting the proposed tax rate for FY 2016/2017 and setting dates for public hearings if necessary. **Margie Cardenas, Finance Director**
-

Background information is attached as follows:

[Cover Memo and Supporting Documentation](#)



Council Agenda Item Cover Memo
August 2, 2016

Agenda Item No.: 7(d)
Presenter: Margie Cardenas, Director of Finance
Department: Finance Department
Legal Review: []

AGENDA CAPTION

Discussion and Action on setting the proposed tax rate for FY 2016/17 and setting dates for public hearings if necessary.

BACKGROUND INFORMATION

The Burnet Central Appraisal District has submitted the tax calculation for the effective tax rate for the FY 2016/17 for the City of Marble Falls.

The effective tax rate is the tax rate that would basically generate the same amount of taxes on properties that were on the tax roll last year and on the current tax roll. Any tax rate above the effective tax rate is considered an increase and requires two public hearings.

The rollback tax rate is the maximum rate, 8% above the effective tax rate, that may be increased to, or assessed without voters being allowed to petition for an election on the tax increase.

The proposed tax rate may be any tax rate amount up to the rollback tax rate.

The tentative tax rates for City of Marble Falls FY 2016/17 are:

- Effective tax rate is .6485 per \$100 valuation
Rollback tax rate is .6656 per \$100 valuation
Current tax rate is .6483 per \$100 valuation

Staff recommends proposing the current tax rate of .6483 to be used for FY 2016/17. This will be a reduction of .03% from the effective tax rate. The draft budget presented to council at the budget workshops assumes the existing tax rate of .6483. The breakdown is as follows for the proposed tax rate:

Table with 2 columns: Category and Amount/Percentage. Rows: Interest & Sinking (.4157 (64%)), Maintenance & Operations (.2326 (36%)), Total (.6483)

If council approves setting the tax rate to be the current tax rate, there is no need to hold two public hearings as required by state law; we will only have one public hearing as required by our charter. The public hearing and first reading will be on August 16th and final adoption of the tax rate will be scheduled on September 6, 2016.

2016 Property Tax Rates in City of Marble Falls

This notice concerns 2016 property tax rates for City of Marble Falls. It presents information about three tax rates. Last year's tax rate is the actual rate the taxing unit used to determine property taxes last year. This year's *effective* tax rate would impose the same total taxes as last year if you compare properties taxed in both years. This year's *rollback* tax rate is the highest tax rate the taxing unit can set before taxpayers can start tax rollback procedures. In each case these rates are found by dividing the total amount of taxes by the tax base (the total value of taxable property) with adjustments as required by state law. The rates are given per \$100 of property value.

Last year's tax rate:

Last year's operating taxes	\$1,506,797
Last year's debt taxes	\$3,144,900
Last year's total taxes	\$4,651,697
Last year's tax base	\$657,727,356
Last year's total tax rate	0.648300/\$100

This year's effective tax rate:

Last year's adjusted taxes (after subtracting taxes on lost property)	\$4,229,587
÷ This year's adjusted tax base (after subtracting value of new property)	\$652,143,609
= This year's effective tax rate	0.648500/\$100

This year's rollback tax rate:

Last year's adjusted operating taxes (after subtracting taxes on lost property and adjusting for any transferred function, tax increment financing, state criminal justice mandate and/or enhanced indigent health care expenditures)	\$3,255,903
÷ This year's adjusted tax base	\$652,143,609
= This year's effective operating rate	0.499200/\$100
× 1.08 = this year's maximum operating rate	0.539100/\$100
+ This year's debt rate	0.415700/\$100
= This year's rollback rate	0.954800/\$100

A hospital district or city that collects the additional sales tax to reduce property taxes, including one that collects the tax for the first time this year, must insert the following lines:

- Sales tax adjustment rate	0.289200/\$100
= Rollback tax rate	0.665600/\$100

Statement of Increase/Decrease

If City of Marble Falls adopts a 2016 tax rate equal to the effective tax rate of 0.648500 per \$100 of value, taxes would increase compared to 2015 taxes by \$ 37,596.

Schedule A: Unencumbered Fund Balances:

The following estimated balances will be left in the unit's property tax accounts at the end of the fiscal year. These balances are not encumbered by a corresponding debt obligation.

Type of Property Tax Fund	Balance
GENERAL FUND	1,474,328

Schedule C - Expected Revenue from Additional Sales Tax

(For hospital districts, cities and counties with additional sales tax to reduce property taxes)

In calculating its effective and rollback tax rates, the unit estimated that it will receive \$ 1,923,786 in additional sales and use tax revenues.

For County: The county has excluded any amount that is or will be distributed for economic development grants from this amount of expected sales tax revenue.

This notice contains a summary of actual effective and rollback tax rates' calculations. You can inspect a copy of the full calculations at .

Name of person preparing this notice:

Title:

Date prepared:

August 2, 2016

7. REGULAR AGENDA

(e) Discussion and Possible Action regarding Highway 281 traffic signals. **Mike Hodge,**
City Manager

Background information is attached as follows:

[Cover Memo and Supporting Documentation](#)



**Council Agenda Item Cover Memo
August 2, 2016**

Agenda Item No.: 7(e)
Presenter: Mike Hodge, City Manager
Department: Administration
Legal Review: N/A

AGENDA CAPTION

Discussion and Possible Action regarding Highway 281 traffic signals.

BACKGROUND INFORMATION

This item has been placed on the agenda to discuss with Council the Highway 281 traffic signals managed by TxDOT.

Movement of traffic on Highway 281 has been discussed on several occasions. Recently the City Traffic Control Committee met to discuss the flow of traffic on Highway 281 and possible solutions to improve traffic flow.

The committee reviewed both the signals at Highway 281 and 6th Street and Highway 281 and 7th Street. After review of both intersections, the committee was of the opinion that the 6th Street signal is utilized more for cross traffic than the 7th Street signal. The committee recommends to study the removal of the 7th Street signal.

Please note that TxDOT sets requirements for signal spacing on highways and the removal of the signal at 7th Street meets these requirements. The committee feels that the removal of this signal will allow for better traffic movement on Highway 281.

In order for TxDOT to remove the signal, Council must make the recommendation. If Council so desires to proceed, the motion would be to instruct staff to prepare a letter to TxDOT recommending the removal of the traffic signal at Highway 281 and 7th Street.



**City of Marble Falls, Texas
Council Agenda Item Cover Memo**

August 2, 2016

**Agenda Item: Executive Session
Prepared By: Christina McDonald, City Secretary
Department: Administration
Submitted By: Christina McDonald, City Secretary**

AGENDA CAPTION

EXECUTIVE SESSION

CLOSE OPEN SESSION AND CONVENE EXECUTIVE SESSION Pursuant to §551.071 (*Private Consultation between the Council and its Attorney*), Pursuant to §551.087 (*Deliberation Regarding Economic Development Negotiations*), and Pursuant to §551.072 (*Deliberation Regarding the Purchase, Exchange, Lease or Value of Real Property*) of the Open Meetings Act. *Tex. Gov't Code*, Council will meet in Executive Session to discuss the following:

- **Discussion regarding economic development projects associated with development of EDC owned and City owned property, including public right-of-way and easements.**

CERTIFICATION:

I hereby certify that I have reviewed the proposed topic for the Executive Session described herein and in my opinion, the Texas Open Meetings Act authorizes the Marble Falls City Council to meet in Executive Session and to deliberate regarding the subject matter contained in this cover memo.

Signed this _____ day of _____, 2016.

City Attorney