



**NOTICE OF MEETING**  
**GOVERNING BODY OF MARBLE FALLS, TEXAS**  
**Tuesday, February 4, 2020 – 6:00 pm**

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

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Notice is hereby given that on the 4<sup>th</sup> day of February 2020 the Marble Falls City Council will meet in regular session at 6:00 pm in the City Hall Council Chambers located at 800 3<sup>rd</sup> 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, PROCLAMATIONS AND RECOGNITIONS**
  - Presentation of Development Services Department 2019 Year End Report. *Valerie Kreger, Director*
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 statement of fact regarding the item; a statement concerning the policy regarding the item or a proposal to place the item on a future agenda.*
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 January 21, 2020 regular meeting. *Christina McDonald, City Secretary*
  - (b) Approval of an Omnibus Agreement between the City of Marble Falls and the Highland Lakes Creative Arts for the Sculpture on Main Event. *Christina McDonald, City Secretary*

(c) Approval of an appointment to Place 3 of the Planning and Zoning Commission. *Christina McDonald, City Secretary*

(d) Approval of Ordinance 2020-0-02B, ordering a General Election to be held on May 2, 2020 for the purpose of electing three Councilmembers to serve for a term of two years. *Christina McDonald, City Secretary*

(e) Approval of a Construction Improvement Agreement for Gregg Ranch at Marble Falls, Phase One, City of Marble Falls, Burnet County, Texas. *Valerie Kreger, Director of Development Services*

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

(a) Public Hearing, Discussion and Action on Ordinance 2020-O-02A, an ordinance amending and replacing Chapter 5 Article III (Special Events) of the Code of Ordinances in its entirety and adopting Chapter 5 Article III (Special Event Regulations). *Erin Burks, Downtown Coordinator*

**8. CITY MANAGER'S REPORT**

- Update on Major Developments: Flatrock, Gregg Ranch, Manzano Ridge and Putters & Gutters

**9. EXECUTIVE SESSION**

**CLOSE OPEN SESSION AND CONVENE EXECUTIVE SESSION** pursuant to §551.07 (*Private Consultation between the Council and its Attorney*) of the Open Meetings Act. *Tex. Gov't Code*, Council will meet in Executive Session to discuss the following:

- Consultation with City Attorney regarding City's authority to sell a portion of its water system
- Consultation with City Attorney regarding settlement of condemnation litigation regarding 110 and 114 Buena Vista properties

**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, 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 30<sup>th</sup> day of January, 2020 at 11:00 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

**February 4, 2020**

**6. CONSENT AGENDA**

- (a) Approval of the minutes of the January 21, 2020 regular meeting. *Christina McDonald, City Secretary*
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**STATE OF TEXAS  
COUNTY OF BURNET  
CITY OF MARBLE FALLS**

**On this the 21<sup>st</sup> day of January 2020 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  
Richard Westerman Mayor Pro-Tem  
William (Dee) Haddock Councilmember  
Craig Magerkurth Councilmember  
Reed Norman Councilmember  
Dave Rhodes Councilmember

**ABSENT:** Celia Merrill Councilmember

**STAFF:** Mike Hodge City Manager  
Caleb Kraenzel Assistant City Manager  
Christina McDonald City Secretary  
Patty Akers City Attorney  
James Kennedy Director of Public Works  
Jay Everett Assistant Director of Public Works  
Mark Whitacre Chief of Police  
Russell Sander Fire Chief  
Tommy Crane Fire Marshal  
Lacey Dingman Parks and Recreation Director  
Christian Fletcher Executive Director Marble Falls EDC  
Erin Burks Downtown Coordinator  
Valerie Kreger Director of Development Services

**VISITORS:** Rene Rosales (Council Candidate Place 3), Paul and Claudine Wells (Derby), Robert and Alice Hoskins (Derby), Dorothy M. Owen (Derby), Bill Gaylord (Friends of the Marble Falls Library), Stephanie Stiles (Derby), Tom Oostermeyer (ZBA), Darlene Oostermeyer (Planning and Zoning Commissioner), Ellen Ely and Keith Russell (First United Methodist Church), Alex Copeland (Daily Trib), Belinda Kelly (216 Main – Main Street Consignment), Amanda Rose and Misty Smith (Marble Falls Public Library), RosAnn Myers (Monroes on Main), Rick Scrimshine (Indian River – Main Street), Cheryl Westerman and Deborah Peters (Ms. Lollipop), Jo Keller (Derby), Shannon Heep (Derby), Erin Lingo (Derby), Norman Lucas (Derby), Steve and Michele Parsons (Chocolattes and Third Street Treasures), Connie Swinney (The Highlander), Rachel Lorange and Robyn Rivers (RBar & Grill), Michele Harte, Debbie Lynn, Bryan Salen, Nathan Legacy, Stan

Hemphill (Chief Appraiser Burnet Central Appraisal District), Russell Buster (HOT Committee), Grant Dean (Derby),

1. **CALL TO ORDER AND ANNOUNCE QUORUM IS PRESENT.** Mayor Packer called the meeting to order at 6:00 pm.
2. **INVOCATION.** Councilmember Haddock gave the invocation.
3. **PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES AND TO THE TEXAS FLAG.** Councilmember Magerkurth led the pledges.
4. **UPDATES, PRESENTATIONS, PROCLAMATIONS AND RECOGNITIONS**
  - **Update from the Marble Falls Public Library.** Amanda Rose, Director of the Marble Falls Public Library gave the update. Children’s Director Misty Smith was also present.
  - **Update from Burnet Central Appraisal District.** Stan Hemphill, Chief Appraiser provided the update.
  - **Presentation of the 2018/2019 Financial Report.** Baron Sauls, Director of Finance gave the presentation of the unaudited 2018/2019 financial report.
5. **CITIZEN COMMENTS.** Ellen Ely and Keith Russell (First United Methodist Church) addressed Council regarding their concerns about traffic and drainage near the church (Bluebonnet Drive from RM 1431 to Terrace). Ms. Ely stated she was aware that the project was included in the City’s Capital Improvement Plan, however she felt the need for the City to move the project up on the list. The representatives from the church stated they had been in contact with the MFISD and is also working with them on the traffic issue. City Manager Mike Hodge acknowledged that staff is aware of the concerns and will work with the church to come to a resolution. Council requested the item be brought back to Council at a later date for an update.
6. **CONSENT AGENDA.**
  - (a) **Approval of the minutes of the January 7, 2020 regular meeting.**
  - (b) **Approval of the appointment of citizens Russell Buster and Darlene Oostermeyer to the Hotel Motel Tax Advisory Committee.**
  - (c) **Approval of the appointment of Christopher Feller, Charles Watkins and Maxanne Jones to Places 2, 4 and 6 of the Parks and Recreation Commission.**
  - (d) **Approval of the appointment of Darlene Oostermeyer, Jason Coleman and Angela Taylor to Places 2, 4 and 6 of the Planning and Zoning Commission.**
  - (e) **Approval of Resolution 2020-R-01A, a resolution allowing for the submission of an application to the TxCDBG (Texas Community Development Block Grant Program) for**

**the Disaster Relief Fund with the Texas Department of Agriculture and appointing an authorized official for the City's Nature Heights Drainage Improvement Project (Bridge).**

- (f) Approval of the 4<sup>th</sup> Quarter Investment Report for the period July 1, 2019 through September 30, 2019.**

Councilmember Westerman made a motion to approve the consent agenda. The motion was seconded by Councilmember Haddock and carried by a vote of 6-0.

**7. REGULAR AGENDA.**

- (a) Discussion and Action on appointments to the Tax Increment Reinvestment Zone (TIRZ) Board No. 1 to serve for a term of two years and the appointment of a Chair to serve for a term of one year.** Christina McDonald, City Secretary addressed Council. Councilmember Haddock made a motion to appoint Teresa Carosella, Charles Johnstone, Tony Plumlee and Mitch McManus to the TIRZ Board to serve for a term of two years and elect Kyle Stripling as Chair to serve until January 2021. Councilmember Rhodes seconded the motion. The motion carried by a unanimous vote (6-0).

- (b) Discussion and Action on approval of recommendations from the Hotel Motel Tax Advisory Committee regarding the allocation of FY 2019/2020 Hotel Occupancy Tax funding for Texas Tournament Zone, Marble Falls Rodeo Association and National Adult Soapbox Derby Association.** Mike Hodge, City Manager opened discussion on the HOT funding. Mr. Hodge stated the HOT Committee recommended funding as follows:

- Texas Tournament Zone - \$2,500 for annual fishing tournament on Lake LBJ (funding from the local assistance allocation)
- Marble Falls Rodeo Association - \$20,000 to construct restroom facilities that support the use of the site for the annual rodeo and other events (to be funded from reserves under capital projects)
- National Adult Soapbox Derby Association - \$10,000 for the 2020 event (funding from the local assistance allocation)

Several individuals were present in support of the soapbox derby event and expressed their desire to see the event continue and be successful in the community.

Derby event organizer Shannon Heep addressed Council regarding the upcoming derby event. Ms. Heep stated that event volunteers obtain funds from the community to produce the event, however the event relies on HOT funds to promote the event.

Stephanie Stiles, Michele Hart, Paul Wills (Ft. Worth), Nate Lacy (Ft. Worth), Grant Dean and Russell Buster all spoke in support of the annual event. Steven Parsons (owner of Chocolate's in the Downtown District) stated he was not against the event, however he would like to be included in the event decision making. Mr. Parsons stated there was lack

of communication between event organizers and some businesses in the Downtown District.

Belinda Kelly (owner of Main Street Consignment) recommended that the event be moved to a different location because of the negative impact it has on her business.

Norman Lucas (owner Brass Hall) stated he was in support of the event, however there needs to be a solution to create a community feeling in the Downtown District.

After much discussion, Mayor Pro-Tem Westerman made a motion to approve the funding for the Texas Tournament Zone, the Marble Falls Rodeo Association and the National Adult Soapbox Derby Association as recommended by the Hotel Motel Tax Advisory Committee. Councilmember Rhodes seconded the motion. The motion carried by a vote of 6-0.

8. **CITY MANAGER'S REPORT.** City Manager Mike Hodge gave an update on TxDOT projects within the city.

**8:10 pm Council convened to Executive Session**

**8:23 pm Council returned to Open Session**

9. **EXECUTIVE SESSION**

**CLOSE OPEN SESSION AND CONVENE EXECUTIVE SESSION Pursuant to §551.071 (*Private Consultation between the Council and its Attorney*) of the Open Meetings Act. *Tex. Gov't Code*, Council will meet in Executive Session to discuss the following:**

- **Consultation with City Attorney regarding Asphalt, Inc. pending litigation**
- **Consultation with City Attorney regarding Buena Vista properties litigation**

10. **RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ITEMS DISCUSSED IN EXECUTIVE SESSION.** Mayor Pro-Tem Westerman made a motion to accept the mediation proposals for the Buena Vista properties (Dunnam and Guillory) as discussed in executive session. Councilmember Rhodes seconded the motion. The motion carried by a unanimous vote (6-0).

11. **ANNOUNCEMENTS AND FUTURE AGENDA ITEMS.** Council reviewed items for the February 4, 2020 regular meeting agenda.

12. **ADJOURNMENT.** There being no further business to discuss, Councilmember Norman made a motion to adjourn. The motion was seconded by Mayor Pro-Tem Westerman. The meeting was adjourned at 8:46 pm.

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**John Packer, Mayor**

**ATTEST:**

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**Christina McDonald, TRMC  
City Secretary**

**DRAFT**

**February 4, 2020**

**6. CONSENT AGENDA**

(b) Approval of an Omnibus Agreement between the City of Marble Falls and the Highland Lakes Creative Arts for the Sculpture on Main Event. *Christina McDonald, City Secretary*

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**Council Agenda Item Cover Memo**  
**February 4, 2020**

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

**AGENDA CAPTION**

Approval of an Omnibus Agreement between the City of Marble Falls and the Highland Lakes Creative Arts for the Sculpture on Main Event.

**BACKGROUND INFORMATION**

The Highland Lakes Creative Arts (the arts) is a 501c3 non-profit organization that has been established to promote and support local art/artists and arts education.

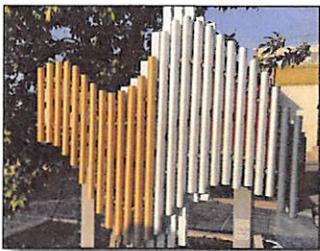
The Sculpture on Main Event is sponsored by the arts.

The attached agreement allows the arts permission to use the City's property to place sculptures at approved locations in the Downtown District to include Main Street, adjacent streets, and parks.

The approved locations are identified in Exhibit A of the agreement.

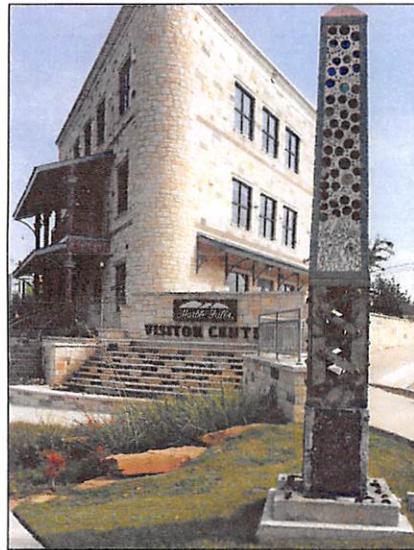
The term of this agreement is for one year and will commence upon approval by the City Council.

**Harmony Park**  
City of Marble Falls  
Interactive Art Piece



**Father Jairo Lopez**  
**Past, Present & Future**

Gift to the City of Marble Falls



Located at Marble Falls Visitors Center  
on Hwy 281 North of the bridge

The old bridge that spanned Lake Marble Falls, built in 1936, was demolished and replaced in 2013. Father Jairo Lopez, associated with *Sculpture On Main* since its inception, was commissioned by The Marble Falls Chamber of Commerce, with financial support from *Sculpture On Main*, to create a sculpture piece with parts of the old bridge symbolizing the "bridging" of old and new.

be part of the arts  
[www.hlcartarts.com](http://www.hlcartarts.com)

For lodging and other information about the area:  
[www.marblefalls.org](http://www.marblefalls.org)

**Sculpture**  
**On Main**

MARBLE FALLS, TX

*Sculpture On Main*, first mounted in 2007, is a unique showing of public art within the Historic Downtown Marble Falls area. The current sculpture display represents the best of artists from around the region. In addition to our rotating sculpture exhibit, mosaic pieces created and donated by Father Jairo Lopez are displayed at the Marble Falls Visitor Center.



*Marble Falls Mustangs*. Fr. Jairo Lopez,  
Located at Marble Falls Visitors Center  
on Hwy 281 North of the bridge

This year-long event is produced by  
**Highland Lakes Creative Arts,**  
a 501c3 non-profit.

**Jerry Daniels**  
**Come Dance With Me**

On loan from  
the Daniels Estate

"The simplicity of a calligraphic  
brushstroke executed  
three-dimensionally in space,  
is for me, the Haiku poetry  
of sculpture."



**Anthony St James**  
**Adam Rankin Johnson**

\$5,000

Adam Rankin (Stovepipe)  
Johnson, frontiersman,  
Confederate general, and town  
founder of Marble Falls, Texas.

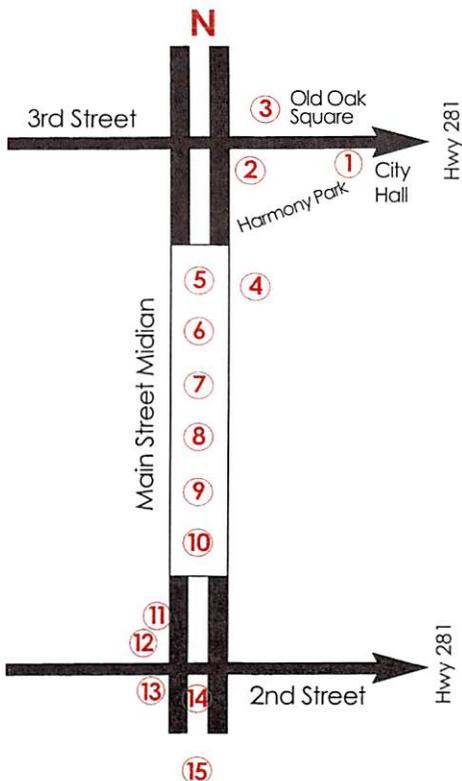
Created for *Sculpture on Main*.



**Dan Pogue**  
**La Fiesta**

Permanent display,  
donated in part by  
HLCA

"La Fiesta is cast in  
bronze and weighs  
approximately 400 lbs.  
The three musical  
mariachis were inspired while I was in Saltillo,  
MX exhibiting my work at the University."





**Joe Allred**  
**Bell Tree**

\$12,500

Two of Allred's works have been selected for The State Fair of Texas' sculpture exhibition.

Bell Tree is an interactive sound sculpture. People are encouraged to ring the bells.

3

**Susan Calkins**  
**Shooting Star Wildflower**

\$7,500

"Nature has always inspired me... it calms me, centers me, intrigues me and amazes me.....all of its incredibly subtle and vibrant colors, shades and hues never end."



4



**Pokey Park Leo**

\$16,000

"My inspirations are from myths and cultural symbols, repeated throughout history, connecting disparate people. The South's rich cultural history, mixed with my enthusiastic pursuit of cultural mythology, has given me endless inspiration for my animal sculptures wrapped in mythical themes."

6

**Jason Crosier**  
**Early Bird**

\$6,000

"The mighty grackle; the unofficial ambassador for central Texas. Beloved and hated, it's difficult to glean the true nature of these birds, but you can't deny their grit."



9



**Warren Cullar**  
**Balance of Power**

\$4,750

"My observation of life is that we all must experience gravity from the moment we wake until we sleep again. We also want our personal life to balance as well as our check book."

2



12

**Harry Angel**  
**La Grazia**

\$2,100

Reared on a farm in the Pennsylvania Amish country, Harry Angel learned his wood-working skills in an area of the country where everything was handmade and built from scratch. He began in relief carving over 30 years ago, having worked with a large variety of wood.



14

**Dan Pogue**

**Mystic Flight**

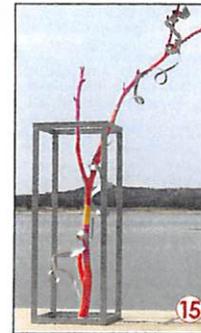
\$24,000

Unlike most of my work which is commissioned by others, "Mystic Flight" was a self-inspired creation from a dream I had about flight. Flying with their heads pointed toward the sky symbolizes the lifting of the spirit.

**Imagination**

\$3,600

Imagination represents how our imaginations are not limited by borders or perceptions.



15

**Cindy Debold**

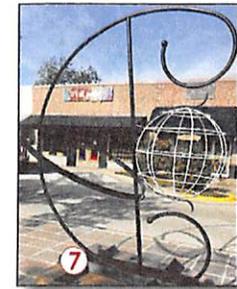


11

**Glee**

\$1,400

"Glee is a sculpture from my emotions series. My goal was to find the essence of the emotion using simplified body language. The see-through heart represents how true love has nothing to hide and the stainless steel reflective surface, symbolizes how happiness radiates out to others."



7

**Celestial**

\$2,000

**Bobby Peiser**

**Hoopsalotta**

3,000

"God has given me the ability to create the pieces I do. My inspiration comes from this gift."



13



10

**Marla Rippera**

**Batik**

\$4,000

"I live on Lake Buchanan and often watch Great Blue Herons, Common Egrets and Green Herons in the water. After a trip to India, where I visited a Batik production factory and learned the process of making beautiful prints in fabric, I thought it would be interesting to use batik blocks in epoxy clay to create a large waterbird."

## OMNIBUS AGREEMENT

THIS OMNIBUS AGREEMENT (hereinafter, the "Agreement") is made and entered into on this 4th day of February 2020 (the "Effective Date"), by and between the City of Marble Falls, a Texas home rule municipal corporation (the "City"), and the Highland Lakes Creative Arts ("the arts"), a non-profit corporation, pursuant to 26 U.S. CODE § 501(c)(3), located in Marble Falls, Texas ("the arts").

### WITNESSETH:

WHEREAS, the City has determined it is in the community's interest to support local arts/artists and arts education through its sponsorship of such events as "*the arts*" Sculpture on Main (the "Event"); and,

WHEREAS, to accommodate the City's needs and to address related issues of public concern regarding such sponsorship, the City and "*the arts*" (collectively, the "Parties") desire to enter into this Agreement for the purposes of defining each Party's roles and responsibilities, among other relevant matters, as such specifically relate to the Event;

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Premises.** The City grants "*the arts*" the right to use the public sidewalks, rights-of-way, and other public property (collectively, the "Licensed Property"), providing an area in which the Event shall take place, as indicated on the map attached hereto as Exhibit "A," which is incorporated herein for all purposes.

The City makes this grant solely to the extent of its right, title and interest in the Licensed Property, without any express or implied warranties.

2. **Purpose.** The City grants "*the arts*" permission to use the Licensed Property solely for the purpose of placing the Event's sculptures (the "Sculptures") at the approved locations, as indicated on the attached Exhibit "A."
3. **Consideration.** The City shall not require "*the arts*" to pay an annual fee. Instead, the Parties agree that the consideration supporting this Agreement derives from the benefits they stand to realize from their collaboration and collective efforts to put on the Event. Any subsidies that the City pays or may promise to provide are ancillary to this Agreement.
4. **Term.** This Agreement shall commence on the Effective Date and shall remain enforceable in its entirety for the full term of the Event (the "Term"), which is held annually by the Parties and usually runs for a period of twelve (12) consecutive months; however, this Agreement may be terminated prior to the expiration of the Term in the event of default, pursuant to terms provided herein.
5. **Limits on License.** The existence of this Agreement is expressly subordinate to the present and future right of the City to use the Licensed Property in any manner authorized by law. This Agreement is also subordinate to any easements, utility easements, rights- of-way, use of

streets for vehicular traffic or other properly recorded property interests, regardless of whether they are pre-existing or not; however, the City will make best efforts so as not to undermine the purposes of this Agreement through any right that it may choose to exercise during the Term.

Accordingly, the City may enter the Licensed Property without notice, and without incurring any obligation to *"the arts"*, and remove or alter the Sculptures, using reasonable efforts to prevent any damage thereto. Such removal will occur only if the City Manager deems it is necessary, pursuant to the following: (a) in order to exercise the City's rights or duties with respect to the Licensed Property; (b) to, otherwise, protect persons or property; or (c) for the public health or safety with respect to the Licensed Property.

6. **Conditions.**

- a. **Location of Sculptures.** The basis for the locations approved by the City for the placement of the Sculptures, as indicated on the attached Exhibit "A," is so that the Sculptures do not cause any kind of impediment to pedestrians, vehicular traffic, the duties and operations of the City, including all municipal ordinances and laws, both state and federal, or the interests of neighboring property owners. Moreover, all Sculptures shall comply with the Americans with Disabilities Act.
- b. **Installation.** *"the arts"* shall install the Sculptures in a manner that insures that the Sculptures can withstand winds up to 45 miles per hour. Any substantive alteration or excavation of existing real property that *"the arts"* deems is necessary must be approved by the City prior to installation, and upon removal of the Sculptures, *"the arts"* is obligated to engage in all reasonable remediation measures necessary to return the property to the condition it was in prior to installation. Beyond what is necessary for *"the arts"* to comply with the requirements of this Agreement, installation shall not be permanent in nature.
- c. **Graphic/Artistic Content of Sculptures.** All Sculptures *"the arts"* intends to use for the Event must be approved by the City prior to installation. Any Sculptures that are pornographic, violent, or discriminatory, or otherwise offensive in nature. For the purpose of this Agreement, "offensive" is defined as anything that meets the following three-part test:
  - i. Whether the average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest;
  - ii. Whether the work depicts or describes, in a patently offensive way, sexual conduct or excretory functions, as defined by Texas law;

- iii. Whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

Additionally, following installation of the Sculptures, *"the arts"* shall be responsible for removing any offensive alteration to the Sculptures, including graffiti, even if it means that *"the arts"* must remove the Sculpture(s) at-issue in their entirety.

- d. **Removal or Modification of Sculptures.** *"the arts"* shall be responsible for the removal of or any alteration made to the Sculptures, pursuant to the terms of this Agreement. In the event that any such removal or alteration should temporarily affect existing rights-of-way, easements or public utilities, *"the arts"* shall comply with all scheduling procedures mandated by the City prior thereto.
- e. **Maintenance.** *"the arts"* shall timely and properly maintain the Sculptures as needed. Accordingly, all Sculptures must remain in place, as indicated on the attached Exhibit "A," until their removal is required under this Agreement. The Sculptures may not be replaced or substituted without prior written approval by the City.

- 7. **Insurance.** *"the arts"*, or any guarantor therefor, shall maintain a commercial general liability insurance policy with a combined singled limit of not less than \$500,000.00, written by a company acceptable to the City Manager and licensed to do business in Texas, and name the City as an additional insured. The required coverage may be provided in the form of a rider and/or endorsement to a previously existing insurance policy. Either way, the policy must cover all perils that may arise from the activities of *"the arts"*, which includes those of its officers, employees, duly authorized agents, or contractors, related to *"the arts"* use of the Licensed Premises and any events stemming from such use. *"the arts"*, or any guarantor therefor, shall be responsible for paying any required deductibles under the policy.

All insurance certificates must include a clause stating that the insurance policy shall not be canceled, reduced, restricted, or otherwise limited, which includes a failure to timely renew, until forty-five (45) days after the City Manager has received (a) written notice, as evidenced by a return receipt for certified mail and (b) substitute certificates of insurance that meet or exceed the requirements stated herein for any such policy. Proof of insurance must be provided to the City prior to placement of the Sculptures, and such coverage must continuously remain in place until all Sculptures have been properly removed.

- 8. **Indemnification.** *"the arts"* hereby agrees to indemnify, save, and hold harmless the City, and all qualified employees, agents and representatives, against any and all liabilities, damages, losses, claims, causes of action, expenses or demands of any nature and to the furthest extent allowed by law, which may arise from or relate to any personal injury, property damage or other alleged harm, stemming from or in any way connected with the placement, display, construction, installation, existence, operation, use, maintenance, repair or removal of the Sculptures (the "Scope of Indemnification"). *"the arts"*, at its own expense, shall be wholly and completely responsible for all costs associated with or obligations arising from anything that falls within the Scope of Indemnification until final disposition. However, *"the arts"* shall

not be liable for anything for which the City has already been compensated by insurance proceeds, whether the underlying claim was filed against "*the arts*" general liability policy, as provided by this Agreement, or the policy of a third party.

9. **Sovereign Immunity.** By entering into this Agreement and performing any obligation hereunder, the Parties agree that the City has not waived its sovereign immunity.
10. **Termination.** If the City reasonably believes that "*the arts*" has abandoned or has failed to maintain the Licensed Premises, the City shall promptly give notice to "*the arts*" of same in writing, pursuant to the proper means provided by this Agreement. Thereafter, if the City Manager receives no substantive response within five (5) days following "*the arts*" receipt of such notification, the City may remove and store all Sculptures, the costs of which "*the arts*" shall be responsible for bearing in full and shall pay within thirty (30) days after having been billed therefor.
11. **Default.** Notwithstanding any other events that may be grounds for default under this Agreement, such events shall include if "*the arts*" fails to provide certificates of insurance required by this Agreement and if "*the arts*" fails to comply with the conditions set forth in paragraph 6 ("Event of Default"). Upon the occurrence of an Event of Default, the City shall give "the arts" written notice of same, pursuant to the means provided by this Agreement, and thereafter, "*the arts*" shall have five (5) days from the date of its receipt of such notification to respond or, otherwise, cure the Event of Default.
12. **Waiver of Default.** Either Party may waive any default of the other at any time, without affecting or impairing any right arising from any subsequent, or other, default.
13. **Notice.** Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States Mail, addressed to the Party to be notified, postage pre-paid and registered or certified with return receipt requested, by hand-delivering the same in-person to such Party with a signed acknowledgement of receipt, or via Federal Express or other courier service that provides a return receipt showing the date of actual, as opposed to constructive, delivery of same. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the Parties shall be as follows:

If to the City, then to the City Secretary at:

City of Marble Falls

800 Third Street

Marble Falls, Texas 78654

If to "*the arts*", then to:

Highland Lakes Creative Arts ("*the arts*")

Sculpture on Main

P.O. Box 8936

Horseshoe Bay, Texas 78657

14. **Assignment of License for Non-Commercial Use of Artwork.** "*the arts*" hereby assigns to the City the license granted to "*the arts*" by each artist for non-commercial use of the Sculptures, or their likenesses, and the artist's name in connection therewith, for publicity or marketing related to the Event, to make such Sculptures available to the public to photograph or videotape, for record-keeping and documentation of installation and removal, and additional non-commercial purposes, including but not limited to, educational, public relations, and promotion of the arts. While risk of infringement certainly accompanies the public display of anything that may be protected by copyright, City covenants that it will take all reasonable measures to protect such interests in its non-commercial use of the Sculptures or their likenesses. This Agreement, however, does not assume that any such copyright has been applied for and approved. No royalties, fees or other remuneration shall be paid by the City for the rights afforded under this assignment.
  
15. **Artist Participation Agreement, Waiver and License.** Prior to installation, "*the arts*" shall provide the City with executed copies of a form of participation agreement that "*the arts*" has entered into with each artist that will be showcasing artwork during the Event (the "Participation Agreement," as further defined by the following sub-paragraphs). The form of participation agreement must include terms substantially similar to the following:
  - a. **Conflicts.** To the extent there are any conflicts between this Agreement and the Participation Agreement, the artist acknowledges that this Agreement controls. Accordingly, the installation, display, removal and terms of each artist's participation are subject to this Agreement, including the conditions set out in paragraph 6. "*the arts*" covenants to provide a copy of this Agreement to each artist prior to, or at the time of, their execution of the Participation Agreement.
  
  - b. **Terms of Informed Consent, Waiver of Liability and Hold Harmless.** The artist understands that participating in certain activities, such as showcasing large heavy works of art for long-term public display at an event like Sculpture on Main (the "Event") and the associated activities related to their installation, maintenance, use and existence (the "Special Activities"), involves a certain degree of risk that could result in serious injury, permanent disability or death. In consideration of the benefits to be derived by the artist named herein from the Special Activities, after carefully considering the risk involved:

- i. TO THE FULLEST EXTENT PERMITTED BY LAW, THE ARTIST HEREBY RELEASES AND WAIVES ALL CLAIMS THE ARTIST MAY HAVE IN CONNECTION WITH THE SPECIAL ACTIVITIES AGAINST THE CITY OF MARBLE FALLS, TEXAS, ITS QUALIFIED EMPLOYEES, AFFILIATES, AGENTS, CONTRACTORS AND VOLUNTEERS (THE "CITY PARTIES").
  - ii. TO THE FULLEST EXTENT PERMITTED BY LAW, THE ARTIST WILL AND DOES HEREBY INDEMNIFY, HOLD FREE AND HARMLESS, ASSUME LIABILITY FOR, AND DEFEND THE CITY PARTIES FROM ALL CLAIMS ARTIST MAY HAVE IN CONNECTION WITH THE SPECIAL ACTIVITIES.
  - iii. "ALL CLAIMS" MEANS ANY AND ALL COSTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, REASONABLE INVESTIGATIVE AND DISCOVERY COSTS, COURT COSTS, AND ALL OTHER SUMS THAT THE COUNCIL PARTIES INCUR AS A RESULT OF ANY DEMAND, CLAIM OR ASSERTION OF LIABILITY BROUGHT BY THE PARTICIPANT OR ANY PARTICIPANT PARTY UNDER ANY MUNICIPAL, STATE, OR FEDERAL LAW OR CAUSE OF ACTION, INCLUDING WITHOUT LIMITATION ANY ACTION FOR INJURY TO PERSONS OR PROPERTY, INCLUDING DEATH, AND ANY ACTION UNDER THE AMERICANS WITH DISABILITIES ACT, ARISING OR ALLEGED TO HAVE ARISEN OUT OF ANY ACT OR OMISSION OF THE COUNCIL PARTIES, OR ANY USE OF REAL OR PERSONAL PROPERTY BELONGING TO THE COUNCIL PARTIES, IN CONNECTION WITH THE SPECIAL ACTIVITIES, INCLUDING WITHOUT LIMITATION ANY CLAIM ARISING, IN WHOLE OR IN PART, FROM THE NEGLIGENCE OR FAULT OF THE CITY PARTIES.
  - iv. FOR PURPOSES OF THIS INFORMED CONSENT, WAIVER OF LIABILITY AND HOLD HARMLESS, "ARTIST" MEANS AND SHALL INCLUDE THE ARTIST'S HEIRS, GUARDIANS, EXECUTORS, ADMINISTRATORS, AND INSURERS.
  - v. IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO, BOTH THE ARTIST AND "*the arts*", THAT THE CITY PARTIES SHALL BE THIRD-PARTY BENEFICIARIES OF THE INDEMNITY PROVIDED FOR HEREIN.
- c. **Assignment of License for Non-Commercial Use of Artwork.** By way of the Participation Agreement, the artist permits "*the arts*" the right to assign to the City

any license granted to "*the arts*" for non-commercial use of the Sculptures, or their likenesses, and the artist's name in connection therewith, for publicity or marketing related to the Event, to make such Sculptures available to the public to photograph or videotape, for record-keeping and documentation of installation and removal, and additional non-commercial purposes, including but not limited to, educational, public relations, and promotion of "*the arts*".

- d. **Representations and Warranties Regarding Copyright.** The artist warrants and represents that the artwork intended for exhibition at the event is an original creation of the artist and does not infringe the copyright, trademark or other intangible rights of any third party.
  
- e. **Sculpture Intended for Exhibition at Event.** The Participation Agreement must include a representative depiction, as an attachment thereto, and accompanying description, if necessary, of the work of art each artist will provide for display during the Event.

16. **Miscellaneous Provisions.**

- a. **Entire Agreement, Forum Selection and Choice of Law.** This Agreement constitutes the entire agreement between the Parties. No modification will be enforceable, unless such modification is in writing and has been signed by the Parties. In the event that any dispute arising under or related to this Agreement results in litigation, mediation or arbitration, such action or proceeding shall be brought in the state district courts of or, otherwise, pursued in Burnet County, Texas.
  
- b. **No Third-Party Beneficiaries.** Other than the benefits that maybe afforded to or realized by the artists participating in the Event, nothing in this Agreement shall be construed to create any right in any third party that is not a signatory to this Agreement, and besides the express exception provided herein, the Parties do not intend to create any third-party beneficiaries by entering into this Agreement.
  
- c. **Assignment.** This Agreement is not assignable, in full or in part, without the prior written consent of the City. Any proposed assignment shall be presented to the City and shall include the name, address, and proposed date of assignment.
  
- d. **Compliance with Laws.** The Parties covenant that all obligations performed under this Agreement or related hereto will comply with all applicable municipal, county, state and/or federal laws, ordinances, or regulations, existing now or that may be lawfully adopted in the future.

- e. **Joint-Drafting.** The Parties agree that this Agreement was drafted jointly and that this Agreement shall not be construed against the other because of their involvement in preparing this Agreement in its written form. Accordingly, in the event of any dispute over its meaning or application, the Parties agree that this Agreement should be interpreted fairly and reasonably, neither more strongly for or against either Party.
- f. **Authority to Execute and Execution.** The individuals executing this Agreement on behalf of the respective Parties represent and warrant that all appropriate and necessary actions have been taken to authorize the individuals who are signing this Agreement to do so for and on behalf of the Party for which his/her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement, that each individual affixing his/her signature is authorized to do so, and that such authorization is valid and effective on the date hereof and for as long as this Agreement may be in place. This Agreement is executed by the Parties hereto without coercion or duress.
- g. **Binding Effect and Renewal.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto, including any respective successors, to the fullest extent permitted herein. And, by written agreement, signed by the Parties hereto, this Agreement may be renewed or extended beyond the initial Term.
- h. **Counterparts.** This Agreement may be executed in a number of identical counterparts, each of which, when taken together, shall be deemed to constitute an original for all purposes, which express includes signatures transmitted via facsimile.
- i. **Savings/Severability.** In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect or to any degree, such defective provision(s), or portion(s) thereof, shall not affect any other provision hereof, and this Agreement shall be construed as if such defective provision(s) had never been contained herein.

IN WITNESS WHEREOF, the Parties have executed this Agreement and have thereby caused same to become enforceable in all respects as of the Effective Date noted above.

City of Marble Falls

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

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

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

Highland Lakes Creative Arts ("The Arts")

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

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

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

\_\_\_\_\_

**February 4, 2020**

**6. CONSENT AGENDA**

- (c) Approval of an appointment to Place 3 of the Planning and Zoning Commission.  
*Christina McDonald, City Secretary*
-



**Council Agenda Item Cover Memo**  
**February 4, 2020**

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

**AGENDA CAPTION**

Approval of an appointment to Place 3 of the Planning and Zoning Commission.

**BACKGROUND INFORMATION**

Place 3 of the Planning and Zoning Commission is vacant due to the recent resignation of Rene Rosales. Mr. Rosales resigned when he filed for City Council.

Staff has one application on file (Larry Jones) for Council's consideration.

If appointed, Mr. Jones will fill the unexpired term and serve until January 2021.

## Christina McDonald

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**From:** noreply@civicplus.com  
**Sent:** Wednesday, January 22, 2020 3:45 PM  
**To:** Christina McDonald  
**Subject:** Online Form Submittal: Application for Appointment to a City Board or Commission

### Application for Appointment to a City Board or Commission

#### Personal Information

Date	1/22/2020
First Name	Laurence
Last Name	Jones
Address1	1104 Pecan Drive
Address2	<i>Field not completed.</i>
City	Marble Falls
State	TX
Zip	78654
Home Phone Number	830 265-8893
Mobile Phone Number	512 567-0223
Email Address	lucysamtina@gmail.com
Business Address	none
Business Phone Number	none
Occupation	Retired
Select the Board, Commission, or Committee applying for	Planning & Zoning Commission (Meets 1st Thursday of month at 6pm)
If applying for the Planning & Zoning Commission please indicate if you own real property within the City Limits.	Yes

If applying for the TIRZ Board please indicate if you own real property within the TIRZ OR indicate if you are an employee or agent of a person who owns real property in the TIRZ.

*Field not completed.*

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**Residency Information**

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Length of residency in City of Marble Falls 12 years +

---

Are you a registered voter? Yes

---

Voter Registration No. 1132811080

---

Did you vote in the last City Election? No

---

**Organization Membership Information**

---

Are you currently serving on other Boards, Commissions, or Committees? No

---

If yes, please list current service, including dates. *Field not completed.*

---

Have you served on a Board, Commission, or Committee before? Yes

---

If yes, please list past service, including dates of service. Burnet County Appraisal Review Board 2018-2019, TX Governor's Nuclear Power Training Board 2009-2012, Governor's Healthcare Policy Council, 2010-2012, Spokane Symphony Board of Directors 1994-1996

---

Please state why you wish to serve. With my experience and expertise, I believe I can contribute to the growth and well being of our community, and learn a lot about our city and government.

---

What qualifications or talents would you bring to a City Board or Commission? I am a retired US Air Force Colonel and a former base commander at a base of 16,000 people. In that position i was responsible for roads, grounds, facilities, utilities, etc. including planning, budgeting, construction and maintenance of same.

---

What are your top three goals and objectives for the board or commission you are applying for? 1. Be supportive of city government. 2. Contribute to sound decisions for a sustainable future. 3. Always act within legal, ethical and financial standards to improve our city.

---

Please list organization memberships and positions held Board member, Living Love Animal Rescue of Marble Falls. My wife and I have been long-time supporters of the Marble Falls Senior Activity Center as well as the Texas Hill Country Home Schoolers.

Please list areas of special interest Gardening, reading, building furniture

PLEASE PROVIDE ALL INFORMATION AS REQUESTED. INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED FOR BOARD OR COMMISSION APPOINTMENTS.

DISCLAIMER AND SIGNATURE

*I hereby request consideration for appointment to a board or commission of the City of Marble Falls, Texas. I certify that my answers above are true and complete. I understand that the information contained in this application may be considered, among other criteria, qualifications and/or information, by the City Council in its evaluation for the position being sought. I further understand that should I be appointed any City of Marble Falls' Board or Commission, I serve at the pleasure of the City Council and may be removed from said position at any time and for any reason or no reason at all, with or without notice. I also understand that should I be appointed to a City of Marble Falls Board or Commission, I must be responsible for a creditable record of attendance and performance. If this application leads to my appointment to a position on a City of Marble Falls Board or Commission, I understand that false or misleading information in my application may result in my removal from the position. I also acknowledge that this information may be made available to the public and the application will be maintained in the City's active files for two years from the date of application. I understand that should I not be appointed to a City of Marble Falls Board or Commission, this application and any other records obtained, collected or otherwise prepared regarding this application shall be maintained in accordance with the Texas Public Information Act and the City of Marble Falls' document retention schedule.*

Signature of Applicant

Do you agree? I Agree

Email not displaying correctly? [View it in your browser.](#)

**February 4, 2020**

**6. CONSENT AGENDA**

- (d) Approval of Ordinance 2020-0-02B, ordering a General Election to be held on May 2, 2020 for the purpose of electing three Councilmembers to serve for a term of two years.  
*Christina McDonald, City Secretary*
-



**Council Agenda Item Cover Memo**  
**February 4, 2020**

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

**AGENDA CAPTION**

Approval of Ordinance 2020-0-02B, ordering a General Election to be held on May 2, 2020 for the purpose of electing three Councilmembers to serve for a term of two years.

**BACKGROUND INFORMATION**

The attached Ordinance orders the May 2, 2020 General Election for election of three Councilmembers, Places 1, 3 and 5 to serve for a term of two years (until May 2022) and designates the polling places and appoints election officials.

The City contract with Burnet County to conduct our elections.

Candidate filing period is January 15 through February 14, 2020.

Early voting will be held at the Marble Falls Courthouse annex and the Burnet County Courthouse between the hours of 8 am and 5 pm on April 20 through April 28. The polls will be open on April 23 and April 27 from 7 am until 7 pm.

On Election Day, May 2, voting will be held at the Marble Falls Courthouse Annex. Polls will be open from 7am until 7pm.

**ORDINANCE NO. 2020-O-02B**

**AN ORDINANCE CALLING AND ORDERING A GENERAL ELECTION TO BE HELD ON MAY 2, 2020 FOR THE PURPOSE OF ELECTING THREE (3) COUNCILMEMBERS TO SERVE FOR A TERM OF TWO (2) YEARS, DESIGNATING THE POLLING PLACE AND APPOINTING ELECTION OFFICIALS; PROVIDING FOR ELECTION SERVICES CONTRACT AND JOINT ELECTION AGREEMENT; PROVIDING THE FORM OF THE BALLOT; DIRECTING THE GIVING OF NOTICE; AND CONTAINING OTHER PROVISIONS RELATING TO THE GENERAL ELECTION.**

**WHEREAS**, the City Council of the City of Marble Falls ("CITY") has the authority to call a General Election on May 2, 2020, to elect three city Councilmembers to serve in at-large place positions, each term consisting of two years; and,

**WHEREAS**, the City Council also has the authority pursuant to Chapter 271, Texas Election Code, to enter into joint election agreements with the other political subdivisions also holding a general election and/or special election on the same date; and,

**WHEREAS**, the City Council also has the authority pursuant to Chapter 31, Texas Election Code, to enter into a contract for election services with the County of Burnet, Texas.

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

**Section 1. Conduct of Election: Date: Eligible Electors: and Hours.** In accordance with laws of the State of Texas and Constitution of the State of Texas, a General Election is hereby called and ordered to be held on Saturday, May 2, 2020, which is seventy-eight (78) or more days from the date of the adoption of this ordinance (the "Ordinance") within the entire territory of the City of Marble Falls for three (3) Councilmembers (for a Term of Two (2) Years ending May 2022), at which General Election all resident, qualified voters of the City may vote for the positions at issue. The City Council hereby finds that holding the Election on such date, which is a uniform election date, is in the public interest. The hours during which the polling places are to be open on Election Day shall be from 7 am to 7 pm.

Pursuant to Chapter 31 of the Texas Election Code and Chapter 791, Texas Government Code, the Council orders that the Election be held under an Election Services Contract with Burnet County.

Pursuant to Chapter 271 of the Texas Election Code, the Council orders that this Election be conducted under the terms and conditions of an Agreement to Conduct Joint Elections with other political subdivisions holding an election on the same date.

**Section 2. Application for Place on the Ballot.** No person's name shall be placed upon the ballot as a candidate for Councilmember unless such person has filed his or her sworn application, as provided by Section 141.03 of the TEXAS ELECTION CODE, with the City Secretary of the City at the City offices, located at 800 Third Street, Marble Falls, Texas 78654, not later than five o'clock (5:00) pm on the 14<sup>th</sup> day of February, 2020, being the 78<sup>th</sup> day before the date of such general election. The City Secretary shall note on the face of each such application the date and time of its filing. Such application shall include the office and place the candidate is seeking.

**Section 3. Voting Precincts.** Except as otherwise provided herein, the presently existing boundaries and territory of the respective Burnet County Election Precincts, that are wholly or partially within the territorial boundaries of the City are hereby designated as the voting precincts of the City for the Election. That said election shall be held in each of the heretofore established election precincts and polling places within the City and the location of said precincts shall be as follows:

**Election Precincts 19 and 20**

**Polling Place:**

Marble Falls Courthouse S. Annex  
810 Steve Hawkins Pkwy.  
Marble Falls, TX 78654

**Section 4. Appointment of Election Officials.** Appointments of the Election Day Presiding Judge and Alternate Presiding Judge will be made by approval of the City Council subsequent to adoption of this ordinance.

**Section 5. Early Voting.** Ms. Christina McDonald, City Secretary, is hereby appointed as the Regular Early Voting Clerk for the City. Mr. Doug Ferguson, Burnet County Elections Administrator is hereby appointed Joint Early Voting Clerk for early voting. Mr. Ferguson is authorized to make appointments of deputy clerks for early voting in accordance with Section 83.031 *et seq.*, of the TEXAS ELECTION CODE and the following locations are hereby designated as places for early voting for said election:

AgriLife Auditorium  
608 N. Vandever St.  
Burnet, Texas 78611

Marble Falls Courthouse S. Annex  
810 Steve Hawkins Pkwy.  
Marble Falls, Texas 78654

Said clerks shall keep said office open for at least eight (8) hours, that is from nine o'clock (9:00) am until five o'clock (5:00) pm, on each day for early voting which is not a Saturday, a Sunday, or an official state holiday, beginning on the twelfth (12<sup>th</sup>) day and continuing through the fourth (4<sup>th</sup>) day preceding the date of said election. The office shall also be open for twelve (12) hours on two (2) days during the early voting period. Early voting by personal appearance shall be conducted at the Main Early Voting Polling Place at the dates and times set forth on the attached *Exhibit A* which is incorporated herein by reference. The Main Early Voting Polling Place shall also remain open on the day of the Election during the hours the polls are required to be open for voting by the Texas Election Code.

Said clerks shall not permit anyone to vote early by personal appearance on any day which is not a regular working day for the clerk's office, and under no circumstances shall they permit anyone to vote early by personal appearance at any time when such office is not open to the public. The early voting clerk's mailing address to which ballot applications and ballots voted by mail may be sent to is 220 South Pierce, Burnet, TX 78611. The early voting clerk, in accordance with the provisions of the TEXAS ELECTION CODE, shall maintain a roster listing each person who votes early by personal appearance and each person to whom an early voting ballot to be voted by mail is sent. The roster shall be maintained in a form approved by the Secretary of State.

**Section 6. Conduct of Election** The Election shall be conducted by election officers, in accordance with the Texas Election Code and the Constitution and laws of the State of Texas and the United States of America. The City Secretary is hereby authorized and directed to furnish all necessary election supplies to conduct such election. The voting at such election shall be by DRE electronic voting device. Early voting at such election shall also be DRE electronic voting device. Early Voting by Mail will be paper ballots.

**Section 7. Ballot.** The order in which the names of the candidates are to be printed on the ballot for such General Election shall be determined by a drawing by the City Secretary as provided by Section 52.094 of the TEXAS ELECTION CODE. The City Secretary shall post a notice in her office, at least seventy-two (72) hours prior to the date on which the drawing is to be held, of the time and place of the drawing, and shall also give personal notice to any candidate who makes written request for such notice and furnished to the City Secretary a self-addressed, stamped envelope. Each candidate involved in the drawing, or a designated representative, shall have a right to be present and observe the drawing.

**Section 8. Canvassing of Returns: Declaring Results.** The Election Officer shall make a written return of the Election results to the City Council in accordance with the Election Code. The Council shall canvass the returns and declare the results of the Election. The candidate receiving a majority of votes for such position to be filled at such General Election shall be declared elected.

**Section 9. Notice of Election.** Notice of this election shall be given in accordance with the provisions of the TEXAS ELECTION CODE and returns of such notice shall be made as provided for in said Code. The Mayor shall issue all necessary orders and writs for such election, and returns of such election shall be made to the City Secretary immediately after the closing of the polls.

**Section 10. Election Information to be provided in Spanish.** Ms. Christina McDonald, City Secretary, is hereby appointed as the Custodian of Records. The Custodian of Records shall be responsible for the preparation of notices, instructions, orders, ballots and other written material pertaining to the Election shall cause each such document to be translated into and furnished to voters in both the English language and the Spanish language in order to aid and assist voters speaking Spanish as a primary or an alternative language to properly participate in the election process. In addition, the Custodian is hereby authorized and directed to make available to the voters having the need of an individual capable of acting as a translator and speaking both English and Spanish languages who will assist Spanish speaking voters in understanding and participating in the election process.

**Section 11. Training of Election Officials.** Pursuant to the Election Code, a public school of instruction for all election officers shall be held as arranged or contracted by the Joint Election Officer.

**Section 12. Authorization to Execute.** The Mayor of the City Council is authorized to execute and the City Secretary is authorized to attest this Ordinance on behalf of the City Council; and the Mayor is authorized to do all other things legal and necessary in connection with the holding and consummation of the Election.

**Section 13. Effective Date.** This Ordinance is effective immediately upon its passage and approval.

**PASSED, AND APPROVED** this 4<sup>th</sup> day of February, 2020.

\_\_\_\_\_  
John Packer, Mayor

ATTEST:

\_\_\_\_\_  
Christina McDonald, TRMC  
City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Patty Akers, City Attorney

**Exhibit A**

**May 2, 2020**

*El 2 de mayo de 2020*

**LOCAL ELECTIONS**

*ELECCIONES LOCALES*

**Burnet County, Texas**

*Condado de Burnet, Texas*

**Early Voting Locations and Hours**

*Sitios y Horarios de Votacion Adelante*

<b>Polling Place</b> <i>Sitio de Votacion</i>		<b>Address</b> <i>Domicillo</i>			<b>City</b> <i>Ciudad</i>	
AgriLife Auditorium		607 N. Vandever St.			Burnet, TX 78611	
Marble Falls Courthouse S. Annex		810 Steve Hawkins Pkwy.			Marble Falls, TX 78654	
Sunday Domingo	Monday Lunes	Tuesday Martes	Wednesday Miercoles	Thursday Jueves	Friday Viernes	Saturday Sabado
	<b>April 20</b> <i>el 20 de abril</i>	<b>April 21</b> <i>el 21 de abril</i>	<b>April 22</b> <i>el 22 de abril</i>	<b>April 23</b> <i>el 23 de abril</i>	<b>April 24</b> <i>el 24 de abril</i>	
	<b>8am-5pm</b>	<b>8am-5pm</b>	<b>8am-5pm</b>	<b>7am-7pm</b>	<b>8am-5pm</b>	
	<b>April 27</b> <i>el 27 de abril</i>	<b>April 28</b> <i>el 28 de abril</i>				<b>MAY 2</b>  <b>ELECTION DAY</b> <b>7am – 7pm</b>
	<b>7am-7pm</b>	<b>8am-5pm</b>				

**February 4, 2020**

**6. CONSENT AGENDA**

- (e) Approval of a Construction Improvement Agreement for Gregg Ranch at Marble Falls, Phase One, City of Marble Falls, Burnet County, Texas. *Valerie Kreger, Director of Development Services*
-



**Council Agenda Item Cover Memo**  
**February 4, 2020**

**Agenda Item No.:** 6(e)  
**Presenter:** Valerie Kreger, Director of Development Services  
**Department:** Development Services  
**Legal Review:**

**AGENDA CAPTION**

Approval of a Construction Improvement Agreement for Gregg Ranch at Marble Falls, Phase One, City of Marble Falls, Burnet County, Texas.

**BACKGROUND INFORMATION**

This item is regarding the Construction Improvement Agreement for the public improvements at Gregg Ranch at Marble Falls, Phase One. The Final Plat for the same was approved by City Council on December 3, 2019. The Construction Improvement Agreement is the mechanism that allows the developer to enter into an agreement with the City and post fiscal for cost of the proposed improvements in order to record the Final Plat prior to construction of the public improvements.

The overall Gregg Ranch property was zoned Planned Development District (PDD) with base zoning of Single-Family District (R-1) and Mixed-Use District (MU-1) on July 7, 2015, via Ordinance No. 2015-O-07B. The PDD was amended in 2017 (Ordinance No. 2017-O-01A) to adjust the original phasing plan and delay the construction of the Amenity Center (a 4.58-acre tract) to Phase Two of the development.

Phase One is approximately 45.48 acres and proposes 169 new residential lots and 8,883 linear feet of new public right-of-way. Two Minor Collector Streets have been provided in accordance with the approved Master Plan, named Gregg Ranch Boulevard and West Cora Lee Loop. The Gregg Ranch Boulevard entry to Highway 281 will be included with Phase One and the West Cora Lee Loop connection to Highway 281 will be included in a future phase. The remaining rights-of-way proposed are local residential streets providing for residential driveway access/cuts.

The required civil engineering documents (Construction Plans) for construction of the proposed public improvements, have been approved and construction has commenced on those improvements. Because those improvements are not complete and accepted by the City, the developer is still required to enter into a Construction Improvement Agreement by which he agrees to complete all public improvements required for the subdivision in order to record the Final Plat and sell any of the lots.

The City Approved a Public Improvement District (PID) for the Gregg Ranch Development. The engineer's estimate for the cost of the public improvements has been submitted and is included with the draft Construction Improvement Agreement attached to this memo.

This item is for consideration of a Construction Improvement Agreement. No notification of adjacent property owners is required.

### **RECOMMENDATION**

Approval of the Construction Agreement for Gregg Ranch at Marble Falls, Phase One.

**Memo Contents:**

- Construction Improvement Agreement Pages 3 - 33

STATE OF TEXAS §

§ CONSTRUCTION AGREEMENT  
COUNTY OF BURNET §

The **CITY OF MARBLE FALLS** ("City"), a home rule municipal corporation situated in Burnet County, Texas, and Marble Falls 300, LP, an Arizona limited partnership ("Developer"), make and enter into this Construction Agreement ("Agreement"), dated and effective on the date of the last party to sign this Agreement ("Effective Date").

### RECITALS

**WHEREAS**, the subdivision regulations require that the Developer make various improvements (the "Improvements") extending City's roadway system, and extending City's water system by connecting to the existing water line, upon the Land described in Exhibit "A";

**WHEREAS**, the Developer has received a construction permit from the City that allows for said Improvements, which Improvements are set forth in the construction plans attached as Exhibit "B";

**WHEREAS**, the Developer has agreed to construct the Improvements at Developer's sole cost and expense;

**WHEREAS**, the City is authorized by subchapter C, § 212.071 et. seq. (**Developer Participation in Contract for Public Improvements**) of the Texas Local Government Code to execute a contract with a developer of land in the municipality to construct public improvements without complying with the notice and competitive sealed bidding procedure of Chapter 252 of the Texas Local Government Code; and

**WHEREAS**, as provided in § 212.071 of the Texas Local Government Code, the Developer and the City agree that the Developer shall construct the Improvements and associated improvements as set forth in the plans attached as Exhibit "B" and incorporated herein for all purposes; and

**WHEREAS**, the City has determined that this Agreement and the Developer's construction of the Improvements can be accomplished in a cost efficient manner, will therefore result in an economic benefit to local taxpayers, and is in the best interests of the citizens of the City; and

**NOW THEREFORE**, in consideration of these premises, the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which both Parties acknowledge, the City and Developer agree as follows:

## 1. DEFINITIONS.

- A. *City* means the City of Marble Falls, a Texas home-rule city and municipal corporation situated in Burnet County, and includes its representatives, agents, assigns, inspectors, contractors, employees and consultants.
- B. *Developer* means Marble Falls 300, LP, an Arizona limited partnership.
- C. *Effective Date* means the date on which the last party executes this Agreement.
- D. *Land* means the property described in Exhibit “A”.
- E. *Notice* means any formal notice or communication required or permitted to be given by one Party to another by this Agreement.
- F. *Parties* mean the City and Developer.
- G. *Project* means the Improvements to be constructed on the Developer’s property and other property as set forth in the plans attached as Exhibit “B”.
- H. *Improvements* means roadway extensions and associated facilities in accordance with the plans approved by the City and attached hereto as Exhibit “B”, and the water line and associated facilities necessary to connect the existing water line to provide water service to the Project in accordance with the plans approved by the City and attached hereto as Exhibit “B”.

## 2. PARTIES’ OBLIGATIONS

Developer shall design and construct the Improvements in accordance with all applicable governmental rules and regulations and the terms of this Agreement. Developer further agrees that it shall be solely responsible for payment of any and all costs, including but not limited to design and construction costs, including labor and materials, arising from the construction of the Improvements, except as provided herein. The Developer shall be solely responsible for any cost associated with construction of the Improvements.

The Developer shall comply with all applicable federal, state and local law including all City ordinances, codes and regulations in the design and construction of the Improvements. Developer shall obtain all permits and inspections required by the City and shall be solely responsible for any costs associated with obtaining such permits and inspections. Upon execution of this Agreement, a schedule shall be submitted to the City Engineer as to when work will begin and be completed under this Agreement.

Any work performed by a contractor or consultant of the Developer will not, under any circumstances, relieve Developer of its responsibilities and obligations under this Agreement. All work performed by the Developer or its agent shall be done in a good and workmanlike

manner and in substantial accordance with the approved plans. Any contractor or consultant hired by Developer shall have sufficient skills and experience to properly perform the work described in the approved specifications and as shown on the approved construction plans, and shall provide adequate supervision to assure competent performance of the work.

During construction of the Improvements, the City shall be granted entry to the construction site at reasonable times to inspect the progress and quality of the construction of the Improvements and test the construction as necessary; and as deemed appropriate in accordance with section 6.4.9 of Appendix B (Development Code) of the City's Code of Ordinances, and any applicable rules and regulations. Developer shall provide to the City a copy of all test results ordered by the Developer.

Upon completion and prior to acceptance by the City of the Improvements and no later than thirty (30) days after completion of the construction of the Improvements, the Developer shall submit a written report or other written evidence of satisfactory payment by the Developer to all subcontractors, agents or vendors supplying material and/or equipment, as applicable for the construction of the Improvements. Issuance of a Certificate of Occupancy for the Project of Developer is subject to the Developer completing the construction of the Improvements pursuant to this Agreement and acceptance of the Improvements by the City. The City will inspect and accept the Improvements as in a manner consistent with inspection and acceptance of similar improvements in other developments similar to the Project and as required by the City's Code of Ordinances, and upon completion and acceptance, agrees to maintain and operate the Improvements, provided, however, that any ponds located within the Project shall be maintained and operated by the property owners association established by Developer for the Project. Upon acceptance of the Improvements by the City, the Performance Bond (defined below) delivered by Developer to City shall, at Developer's request, either be promptly returned to Developer upon delivery by Developer to City of a new maintenance bond for the Improvements as required by the public improvement district that includes the Project, or the Performance Bond shall be amended so that it serves as the maintenance bond as required by the public improvement district that includes the Project.

### **3. TERM**

No Certificate of Occupancy shall be issued on the Property until the Developer has completed construction of the roadways, water lines, stormwater lines and sanitary sewer lines as shown on Exhibit "B" to be constructed by Developer (the "Major Improvements") and the City has inspected and accepted such Major Improvements. In any event the Developer shall complete construction of the Improvements no later than the dates specified in the schedule approved by the City Engineer, subject to delays for force majeure and other delays outside of Developer's reasonable control.

Unless terminated earlier as provided for herein, this Agreement shall automatically terminate after the construction and acceptance by the City of the Improvements.

If the City Engineer determines that the Improvements have not been constructed substantially in accordance with the approved plans set forth on Exhibit “B”, or any requirements under the law have not been met and the Improvements cannot be accepted by the City, then Developer shall be solely responsible for any necessary corrections and alterations and all costs associated with any necessary corrections and alterations. The City shall not be responsible nor participate in any costs incurred in such instance. If Developer does not complete the construction of the Improvements in accordance with the terms herein, the City may elect to terminate this Agreement or complete the construction and assess the Developer with any costs to complete the construction of the Improvements.

In addition, Developer agrees to provide a warranty on its work on the Improvements for a period of one year following completion.

#### **4. BOND AND INSURANCE REQUIRED**

The Developer must execute concurrently with the execution of this Agreement, a performance bond, letter of credit or other fiscal security (the “Performance Bond”) for one hundred (100%) percent of the total estimated construction cost of the Improvements to secure fulfillment of all of the Developer’s obligations under this Agreement. The performance bond or other fiscal security must be in a form to be approved by the City, and once executed a copy shall be provided to the City prior to commencement of construction of the Improvements. The bond, or if applicable any other fiscal security, must be executed by a corporate surety in accordance with Chapter 2253, Texas Government Code and identify the City as the named Obligee, and the City shall be notified of termination of such fiscal security if prior to the end of the term of this Agreement.

The Developer must acquire a general liability policy with minimum liability limits of \$325,000.00 per occurrence with aggregate coverage of \$650,000.00 and name the City as an additional insured.

#### **5. INCREASED COSTS**

It may be anticipated that additional costs may arise regarding construction of the Improvements through site conditions or latent defects; however, Developer agrees that it will be solely responsible for payment of all costs for the Improvements whether known at the time of execution of this Agreement or discovered after execution of the Agreement.

#### **6. NOTICE OF DEFAULT; OPPORTUNITY TO CURE; REMEDIES**

Should any Party allege that the other has defaulted in the performance of any obligation hereunder, it will provide at least thirty (30) days written notice to the other Party specifying the nature of the alleged default and opportunity to cure the default before exercising any remedy related to the alleged default, provided that, if the nature of the default requires a longer period to cure the default, a Party shall not be in default so long as it commences to cure such default within thirty (30) days following receipt of such written notice and during such time as it is proceeding with reasonable diligence thereafter to cure such default.

Upon the failure of either Party to comply with the provisions of this Agreement, which failure continues beyond the notice and cure period provided above, then in the case of default by City, the Developer, as its sole and exclusive remedy, shall have the right to enforce the terms and provisions of this Agreement by specific performance, or in the case of default by Developer, the City, as its sole and exclusive remedy, may exercise its remedies under the Performance Bond or the City's Code of Ordinances.

The foregoing notwithstanding, it is understood and agreed that should Developer fail to comply with the City's Land Use Regulations or any other applicable development regulation in connection with the Project, the City may withhold building or development permits for the Project or Certificates of Occupancy until such failure is cured. Developer shall remain responsible for all cost to construct or complete the Improvements as shown on Exhibit "B" whether or not this Agreement is terminated.

No prior written notice shall be required to terminate this Agreement if there is an imminent threat to the public health, safety and welfare, and the City may take any and all actions as necessary to mitigate the immediate threat and assess the costs to the Developer.

## 7. MISCELLANEOUS

A. **Entire Agreement.** This Agreement including any attached exhibits is the entire agreement between the Parties and supersedes all prior or contemporaneous understandings or representations, whether oral or written, respecting the subject matter herein.

B. **Amendment.** No amendment of this Agreement will be effective unless it is in writing and signed by the duly authorized representatives of the Parties hereto, which amendment will incorporate this Agreement in every particular not otherwise changed by the amendment.

C. **Other Instruments, Actions.** The Parties hereto agree that they will take such further actions and execute and deliver such other and further consents, authorizations, instruments, or documents as are necessary or incidental to effectuate the purposes of this Agreement. In particular, Developer shall be responsible for providing City with copies of all engineering and construction drawings, designs and connections associated with the water and wastewater systems and other Improvements constructed by Developer and intended for acceptance by the City.

D. **No Third Party Rights or Obligations.** No person or entity not a party to this Agreement shall have any third party beneficiary or any other rights against the parties to this Agreement.

E. **Applicable Law; Venue.** This Agreement shall be construed under and according to the laws of the State of Texas. Jurisdiction and venue for any suit arising hereunder shall be in Burnet County, Texas.

F. **Severability.** The provisions of this Agreement are severable, and if any court shall ever hold any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement or the application of it to any person or circumstance of competent jurisdiction to be invalid

or unconstitutional for any reason, the remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to other persons or circumstances will not be affected by that and this Agreement will be construed as if it had never contained such invalid or unconstitutional portion therein.

G. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

H. **Notices.** For the purposes of Notice, the addresses of the Parties will, until changed as provided below, be as follows:

**CITY:**

801 Third Street  
Marble Falls, Texas 78654  
Attn.: City Manager  
Phone: (830) 693-3615  
Fax: (830) 693-6737

**DEVELOPER:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_

The Parties will have the right from time to time to change their respective addresses upon written notice to the other Party. If any date or notice period described in this Agreement ends on a Saturday, Sunday or legal holiday, the applicable period for calculating the Notice will be extended to the first business day following such Saturday, Sunday or legal holiday.

I. **No Waiver of Development Ordinances.** No waiver of any provision of this Agreement will be deemed to constitute a waiver of any other provision of any other agreement, or of any regulation, requirement or ordinance, if any, applicable to the Land or to the Project. No waiver of any provision of this Agreement will be deemed to constitute a continuing waiver unless expressly provided for by written amendment to this Agreement; nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent defaults of the same type. Nothing herein shall waive any obligations of Developer under applicable ordinances, including but not limited to the Code of Ordinances or the water and wastewater regulations.

J. **Attorney's Fees.** Should either Party be required to resort to litigation to enforce the terms of this Agreement, the prevailing Party, plaintiff or defendant, shall be entitled to recover its costs, including reasonable attorney's fees, court costs, and expert witness fees,

from the other Party. If the court awards relief to both Parties, each will bear its own costs in their entirety except as otherwise specified by the court.

**K. Governmental Authority.** Nothing in this Agreement shall be construed to limit, restrict, modify, or abrogate the City's governmental authority or ordinances respecting the facilities and utility improvements contemplated by the terms of this Agreement except as specifically waived or modified herein or by specific action of the City Council, nor the City's duty to provide for the public health, safety, and welfare in the construction or maintenance of the same.

**L. Assignability.** Developer will have the right to assign this Agreement to a financially viable entity via a written Assignment and Assumption Agreement in which the assignee expressly assumes and agrees to perform all obligations of Developer under this Agreement without limitation or restriction of any kind. Developer shall provide the City with a copy of such Assignment and Assumption Agreement promptly after its execution. After such assignment, Developer shall have no responsibility for any liabilities or obligations under this Agreement accruing after the date of the assignment, unless the assignee defaults in its obligation to perform under this Agreement and such default extends beyond thirty days from the date that City notifies the assignee of its default. Alternatively, Developer may request that the City consent to an assignment of the Agreement and upon the City's consent and assignee's execution of an Assignment and Assumption Agreement, the assignee shall thereafter be responsible for all obligations pursuant to the Agreement and Developer shall have no further obligations under this Agreement from the date of the assignment. For avoidance of doubt, it is understood and agreed that, upon assumption by the property owners' association established by Developer for the Project of the obligation to maintain and operate any ponds located within the Project, Developer has no further obligation or liability to maintain and operate the ponds.

**M. Binding Obligation.** This Agreement shall be binding upon and inure to the benefit of the Parties and their representatives, successors, and assigns. Notwithstanding the foregoing, this Agreement shall not be binding upon, and shall not constitute any encumbrance to title as to, any end-buyer/homebuyer of a platted lot ("an End-Buyer") and shall not negate the End-Buyer's obligation to comply with the City's zoning ordinances, as they currently exist or may be amended.

**N. Indemnification.** This Agreement is not intended to alter or reallocate any defense or immunity presently authorized to either party by law. The City shall not be subject to any obligations or liabilities of the Developer incurred in the performance of this Agreement. Developer has voluntarily agreed to undertake the construction of the public improvements. **DEVELOPER SHALL INDEMNIFY AND HOLD CITY HARMLESS FROM ANY AND ALL CLAIMS AND SUITS OF THIRD PARTIES, INCLUDING BUT NOT LIMITED TO DEVELOPER'S SUCCESSORS, ASSIGNS, GRANTEEES, VENDORS, TRUSTEES OR REPRESENTATIVES, BROUGHT PURSUANT TO THIS AGREEMENT OR THE CLAIMS OR TYPES OF CLAIMS DESCRIBED IN THIS PARAGRAPH. CITY SHALL HAVE NO RESPONSIBILITY OR OBLIGATION**

**FOR INDEMNIFICATION OR DEFENSE OF DEVELOPER IN THIS AGREEMENT.**

O. **Ambiguities Not to Be Construed against Party Who Drafted Agreement.** The rule of construction that ambiguities in a document will be construed against the party who drafted it will not be applied in interpreting this Agreement.

P. **No Special Relationship.** The parties' do not intend to create the relationship of principal and agent, partnership, joint venture, or any other special relationship by executing this Agreement.

Q. **Authorized Signature.** The person executing this Agreement on behalf of the Developer warrants to the City that the Developer is a duly authorized to do so, is qualified to do business in the State of Texas, and that Developer has full right and authority to enter into this Agreement, and that every person signing on behalf of Developer is authorized to do so.

R. **Estoppel Certificate.** From time to time upon written request of the Developer, if needed to facilitate a sale of all or a portion of the Project or a loan secured by all or a portion of the Project, the City will execute to its knowledge and belief, a written estoppel certificate in a form and substance as reasonably requested by Developer, including, among other things, identifying any obligations of the Developer under this Agreement that are in default.

Executed on the dates set forth below, to be effective as the date of the last party to sign this Agreement ("Effective Date").

**CITY OF MARBLE FALLS, TEXAS**

Date: \_\_\_\_\_, 2020

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

Name: \_\_\_\_\_

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

ATTEST:

\_\_\_\_\_  
Christina McDonald, City Secretary

STATE OF \_\_\_\_\_ §

COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, authorized agent for \_\_\_\_\_, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purpose and consideration herein expressed and in the capacity herein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_.

Notary Public \_\_\_\_\_ County, \_\_\_\_\_

My commission expires \_\_\_\_\_

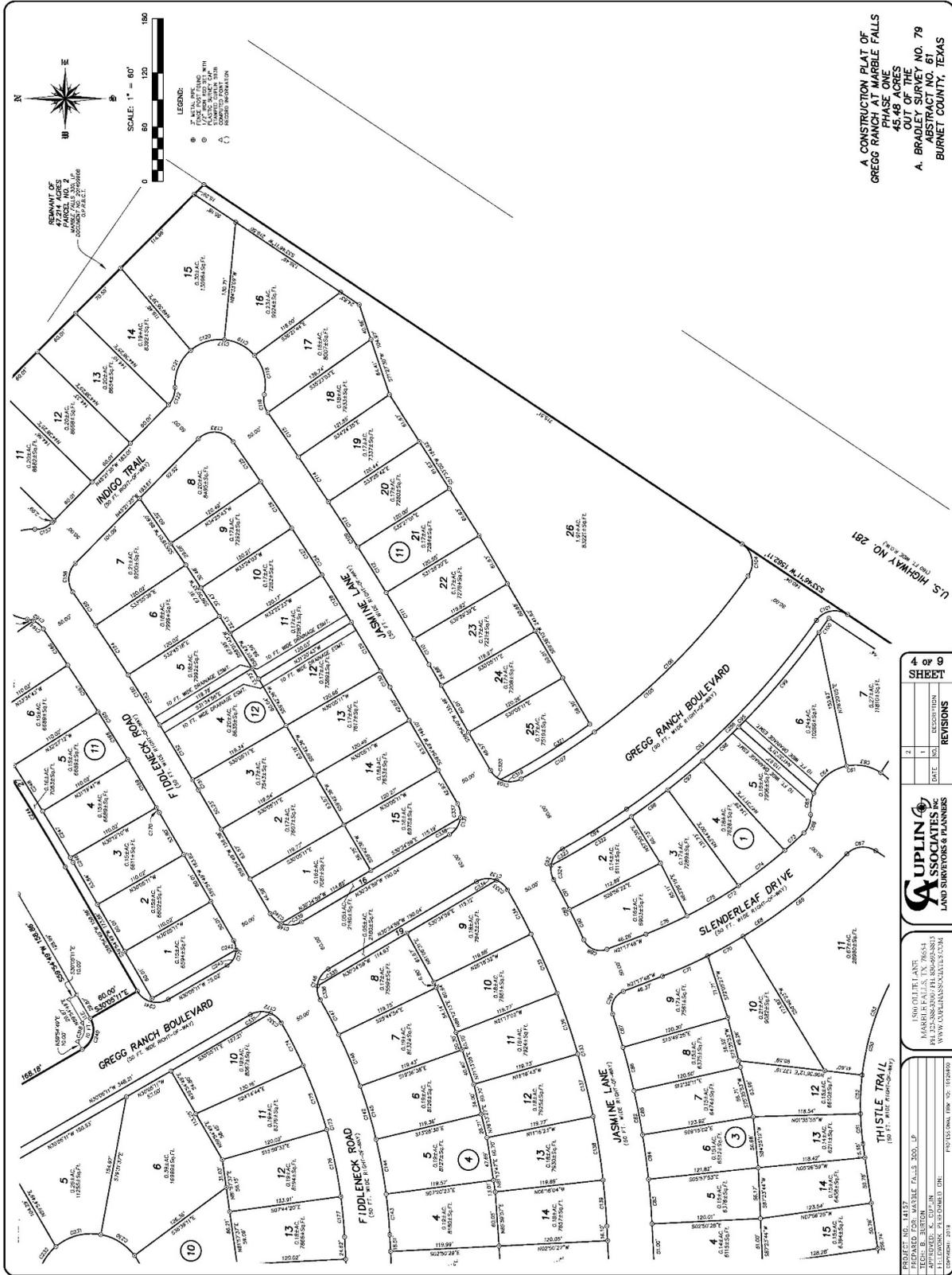








# Exhibit "A"-Plat Area (Page 4 of 9)



A CONSTRUCTION PLAT OF  
 GREGG RANCH AT MARBLE FALLS  
 PHASE ONE  
 45.48 ACRES  
 OUT OF THE  
 ABSTRACT NO. 79  
 ABSTRACT NO. 81  
 BURNET COUNTY, TEXAS

4 of 9 SHEET		REVISIONS	
2		1	DESCRIPTION
1		DATE	NO.

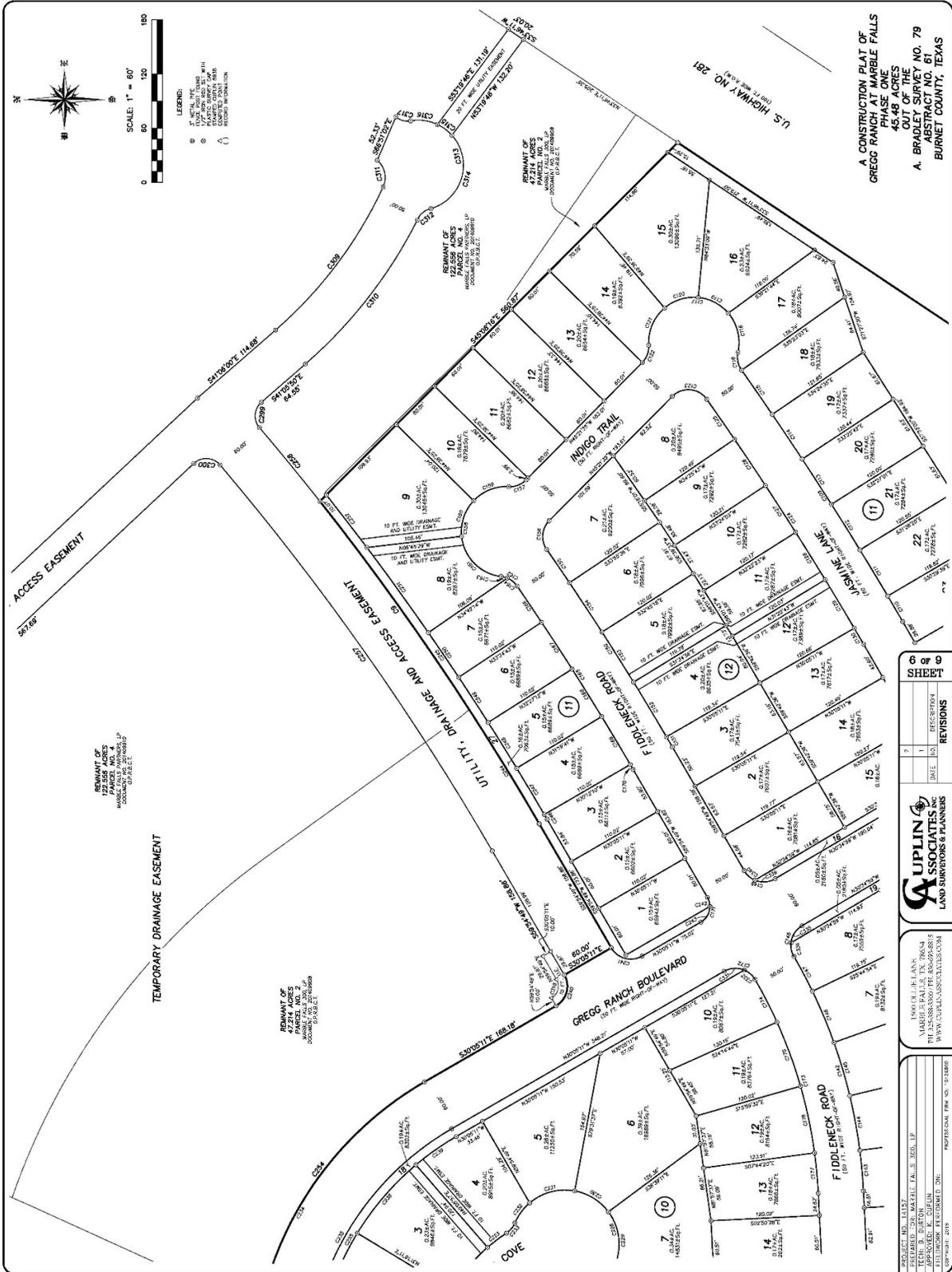
**AUPLIN ASSOCIATES INC.**  
 LAND SURVEYORS & PLANNERS

1500 OILFIELD  
 MARBLE FALLS, TX 78654  
 TEL: 817-233-8888  
 WWW.AUPLINASSOCIATES.COM

PROJECT NO. 14157  
 PREPARED FOR: MARBLE FALLS, LLC, LP  
 TECH. B. BERSON  
 1111 W. WILSON, PLAZA 2000, DR.  
 DRYDEN, TEXAS 76735  
 (817) 233-8888



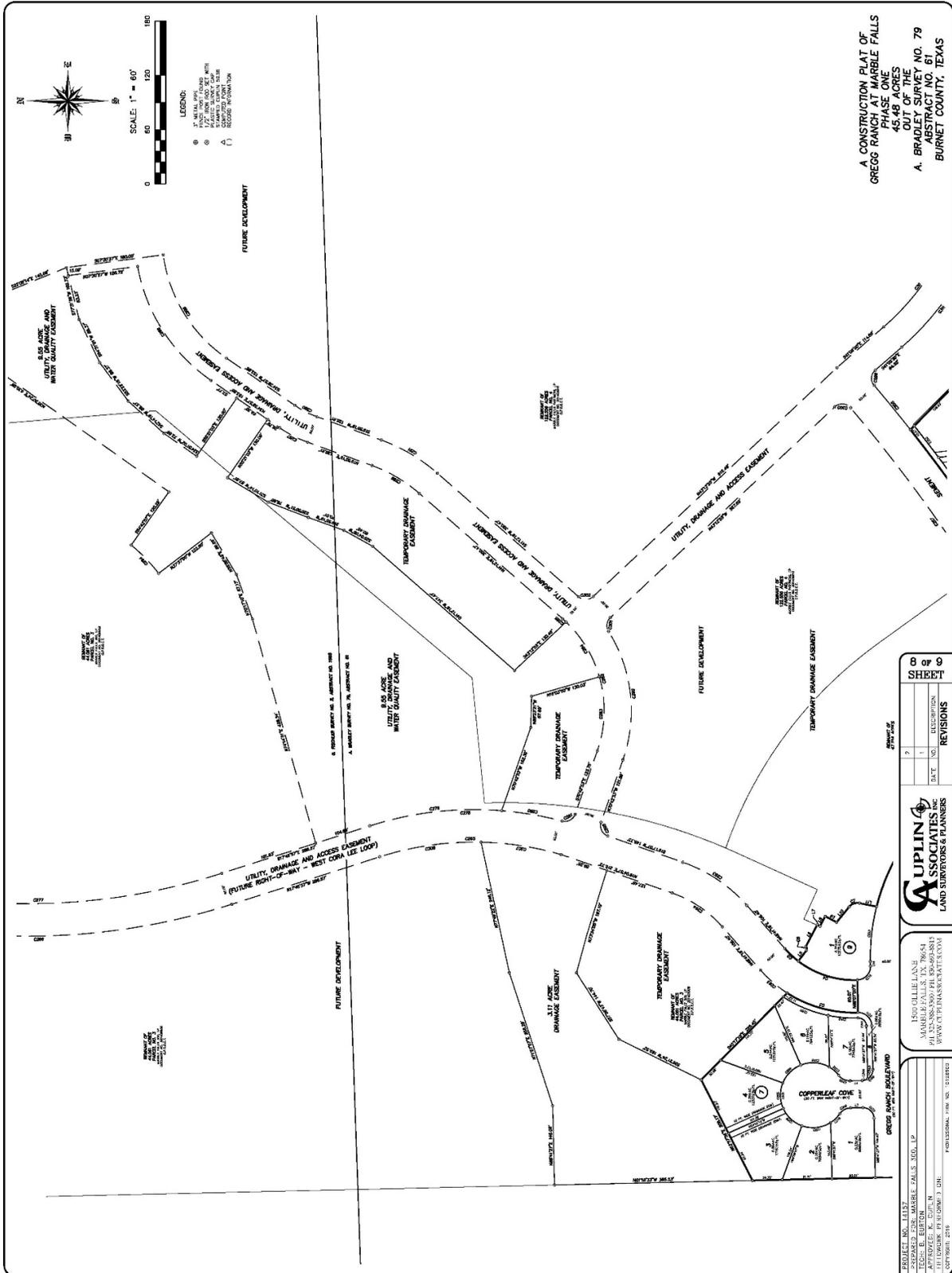
# Exhibit "A"-Plat Area (Page 6 of 9)



6 of 9 SHEET	
DATE	REVISIONS
PROJECT NO. 14327 PREPARED BY: MEL MARBLE, L.A.S., S.D.S., L.P. TITLE: B. SUBDIVISION DRAWING NO.: 14327-001 DATE: 08/11/2011 DRAWING PERFORMED BY: MEL MARBLE, L.A.S., S.D.S., L.P. CHECKED BY: MEL MARBLE, L.A.S., S.D.S., L.P. DATE: 08/11/2011 PROFESSIONAL ENGINEER NO. 121828	



# Exhibit "A"-Plat Area (Page 8 of 9)



A CONSTRUCTION PLAT OF  
 GREGG RANCH AT MARBLE FALLS  
 PHASE ONE  
 45.48 ACRES  
 CITY OF MARBLE FALLS  
 A. BRADLEY SURVEY NO. 79  
 ABSTRACT NO. 61  
 BURNET COUNTY, TEXAS

8 of 9 SHEET	
DATE	DESCRIPTION
1	REVISIONS
 AUPLIN & ASSOCIATES INC. LAND SURVEYORS & PLANNERS	
1800 CALLE LANE MARBLE FALLS, TX 78654 WWW.AUPLINANDASSOCIATES.COM	
PROJECT NO. 1157 DRAWN BY: JEN. MARBLE FALLS, NO. LP CHECKED BY: E. BERTON DATE: 11/15/2018 PROFESSIONAL SEAL NO. 121882 OCTOBER 2018	



**Exhibit “B” – Public Improvements (Page 1 of 287)**

# Exhibit “C” – Construction Estimate (Page 1 of 11)

## THE GREGG RANCH AT MARBLE FALLS PHASE 1 CONSTRUCTION ESTIMATE MARBLE FALLS, TEXAS

### UNIT PRICE SCHEDULE

The Pay Item reference indicates the controlling specification for each Pay Item of K.C. Engineering, Inc. Standard Specifications (3rd Edition). Pay Items containing a reference to TxDOT are from Texas Department of Transportation Standard Specifications for Construction and Maintenance of

GENERAL REQUIREMENTS					
010.16.2	SEQUENCE OF CONSTRUCTION	1	LS	\$ 3,850.00	\$ 3,850.00
010.16.3	FIELD ENGINEERING	1	LS	\$ 33,362.34	\$ 33,362.34
010.16.5	MOBILIZATION	1	LS	\$ 18,150.00	\$ 18,150.00
<b>TOTAL GENERAL REQUIREMENTS</b>				<b>\$</b>	<b>55,362.34</b>
ROADWAY IMPROVEMENTS					
102.4.2	CLEARING AND GRUBBING	80	STA	\$ 322.75	\$ 25,820.00
102.4.5	SELECTIVE CLEARING AND GRUBBING (OFFSITE UTILITIES)	121	STA	\$ 113.60	\$ 13,711.52
106.4.1	SUBGRADE PREPARATION	38,411	SY	\$ 2.20	\$ 84,504.20
200.5.1	EXCAVATION	18,000	CY	\$ 5.12	\$ 92,160.00
220.4.1	EMBANKMENT	6,300	CY	\$ 4.92	\$ 30,996.00
240.6.1	FLEXIBLE BASE - 10"	3,994	CY	\$ 37.73	\$ 150,693.62
240.6.1	FLEXIBLE BASE - 8"	5,703	CY	\$ 39.72	\$ 226,523.16
240.6.1	FLEXIBLE BASE - EXTRA DEPTH - 6"	1,376	CY	\$ 29.45	\$ 40,523.20
300.16.2	CONCRETE PAVEMENT	508	SY	\$ 63.56	\$ 32,288.48
TxDOT 310.1	PRIME COAT - MC-30	33,107	SY	\$ 0.37	\$ 12,249.59
410.10	HOT MIX TYPE C (2")	33,107	SY	\$ 9.45	\$ 312,861.15

## Exhibit "C" – Construction Estimate (Page 2 of 11)

### THE GREGG RANCH AT MARBLE FALLS PHASE I CONSTRUCTION ESTIMATE MARBLE FALLS, TEXAS

#### UNIT PRICE SCHEDULE

The Pay Item reference indicates the controlling specification for each Pay Item of K.C. Engineering, Inc. Standard Specifications (3rd Edition). Pay Items containing a reference to TxDOT are from Texas Department of Transportation Standard Specifications for Construction and Maintenance of

330.5.1	CONCRETE CURB (24" BARRIER CURB)	15,912	LF	\$ 13.83	\$ 220,062.96
TxDOT 531.5.A	CONCRETE SIDEWALKS (5' WIDTH, 4" DEPTH)	15,120	LF	\$ 20.68	\$ 312,681.60
400.7.2	SIDEWALKS - VARIABLE WIDTH (PARKING LOT)	0	SY	\$ 37.22	\$ -
2500.6.1	HIKE AND BIKE TRAIL (GRANITE GRAVEL, 8' WIDTH, 4" DEPTH, WITH EDGING MATERIAL)	1,014	SY	\$ 21.01	\$ 21,304.14
TxDOT 531.5	CURB RAMPS - AT INTERSECTIONS	43	EA	\$ 935.00	\$ 40,205.00
	STOCKPILE OVERBURDEN ON SITE (NO HAUL-OFF) - LOCATION WILL BE PROVIDED	1	LS	\$ 2,000.00	\$ 2,000.00
<b>TOTAL ROADWAY IMPROVEMENTS</b>				<b>\$</b>	<b>1,618,584.62</b>
<b>SIGNS &amp; STRIPING</b>					
TxDOT 644.5.A	INSTALL SMALL ROADSIDE SIGN SUPPORTS AND ASSEMBLIES - R1-1 STOP SIGN	31	EA	\$ 550.00	\$ 17,050.00
TxDOT 644.5.A	INSTALL SMALL ROADSIDE SIGN SUPPORTS AND ASSEMBLIES - SPEED LIMIT SIGN	1	EA	\$ 550.00	\$ 550.00
TxDOT 644.5.A	INSTALL SMALL ROADSIDE SIGN SUPPORTS AND ASSEMBLIES - RIGHT LANE MUST TURN RIGHT SIGN	2	EA	\$ 550.00	\$ 1,100.00
TxDOT 644.5.A	INSTALL SMALL ROADSIDE SIGN SUPPORTS AND ASSEMBLIES - STREET NAME SIGN	0	EA	\$ -	\$ -
TxDOT 644.5.A	INSTALL SMALL ROADSIDE SIGN SUPPORTS AND ASSEMBLIES - LEFT LANE MUST TURN LEFT SIGN	1	EA	\$ 286.00	\$ 286.00
TxDOT 666.6	REFLECTORIZED PAVEMENT MARKINGS - TYPE I, SINGLE SOLID YELLOW STRIPE, 4" WIDE, 90 MILS	2,625	LF	\$ 1.38	\$ 3,622.50
TxDOT 666.6	REFLECTORIZED PAVEMENT MARKINGS - TYPE I, BROKEN YELLOW STRIPE, 4" WIDE, 90 MILS	375	LF	\$ 1.38	\$ 517.50
TxDOT 666.6	REFLECTORIZED PAVEMENT MARKINGS - TYPE I, YELLOW, MEDIAN STRIPING, 90 MILS	153	LF	\$ 13.66	\$ 2,089.98

## Exhibit "C" – Construction Estimate (Page 3 of 11)

### THE GREGG RANCH AT MARBLE FALLS PHASE 1 CONSTRUCTION ESTIMATE MARBLE FALLS, TEXAS

#### UNIT PRICE SCHEDULE

The Pay Item reference indicates the controlling specification for each Pay Item of K.C. Engineering, Inc. Standard Specifications (3rd Edition). Pay Items containing a reference to TxDOT are from *Texas Department of Transportation Standard Specifications for Construction and Maintenance of*

TxDOT 666.6	REFLECTORIZED PAVEMENT MARKINGS - TYPE I, BROKEN WHITE STRIPE, 4" WIDE, 90 MILS	300	LF	\$ 1.93	\$ 579.00
TxDOT 666.6	REFLECTORIZED PAVEMENT MARKINGS - TYPE I, WHITE RIGHT TURN STRIPING (8")	482	LF	\$ 2.48	\$ 1,195.36
TxDOT 666.6	REFLECTORIZED PAVEMENT MARKINGS - TYPE I, WHITE STOP BAR STRIPING (12")	438	LF	\$ 7.43	\$ 3,254.34
TxDOT 666.6	REFLECTORIZED PAVEMENT MARKINGS - TYPE I, WHITE, TURN ARROW	10	EA	\$ 110.00	\$ 1,100.00
TxDOT 666.6	REFLECTORIZED PAVEMENT MARKINGS - TYPE I, WHITE, WORD, (ONLY)	8	EA	\$ 165.00	\$ 1,320.00
TxDOT 666.6	REFLECTORIZED PAVEMENT MARKINGS - TYPE I, WHITE CROSSWALK STRIPING	3,009	LF	\$ 3.03	\$ 9,117.27
	TYPE 3 BARRICADES (PERMANENT) - PER DETAIL HANDICAPPED PARKING SIGNAGE, STRIPING AND WHEEL STOPS (PARKING LOT) - PER DETAILS	4	LS	\$ 1,093.13	\$ 4,372.52
	REFLECTORIZED PAVEMENT MARKINGS - TYPE I, SINGLE SOLID WHITE STRIPE, 4" WIDE, 90 MILS (PARKING LOT)	0	LS	\$ 1,485.00	\$ -
TxDOT 666.6		0	LF	\$ 1.10	\$ -
1020.4.1	FIRE LANE STRIPING (PARKING LOT)	0	LF	\$ 5.23	\$ -
1000.4.1	TEMPORARY TRAFFIC CONTROL DEVICES	1	LS	\$ 1,100.00	\$ 1,100.00
<b>TOTAL SIGNS AND STRIPING</b>				<b>\$</b>	<b>47,254.47</b>
<b>WATER SYSTEM IMPROVEMENTS</b>					
500.9.2	PIPE, PVC C905, DR18 - 16"	1,813	LF	\$ 86.26	\$ 156,389.38
500.9.2	PIPE, PVC C900, DR18 - 12"	5,146	LF	\$ 41.12	\$ 211,603.52
500.9.2	PIPE, PVC C900, DR18 - 8"	6,345	LF	\$ 37.02	\$ 234,891.90
500.9.4	GATE VALVES, 16" DIAMETER	7	EA	\$ 6,095.10	\$ 42,665.70

## Exhibit “C” – Construction Estimate (Page 4 of 11)

### THE GREGG RANCH AT MARBLE FALLS PHASE I CONSTRUCTION ESTIMATE MARBLE FALLS, TEXAS

#### UNIT PRICE SCHEDULE

The Pay Item reference indicates the controlling specification for each Pay Item of K.C. Engineering, Inc. Standard Specifications (3rd Edition). Pay Items containing a reference to TxDOT are from *Texas Department of Transportation Standard Specifications for Construction and Maintenance of*

500.9.4	GATE VALVES, 12" DIAMETER	22	EA	\$ 2,102.65	\$ 46,258.30
500.9.4	GATE VALVES, 8" DIAMETER	47	EA	\$ 1,150.38	\$ 54,067.86
500.9.5	FIRE HYDRANTS	12	EA	\$ 4,665.10	\$ 55,981.20
500.9.7	AIR / VACUUM RELEASE VALVES	5	EA	\$ 4,229.72	\$ 21,148.60
500.9.8	PRESSURE TEST	1	LS	\$ 1,925.00	\$ 1,925.00
500.9.9	LEAKAGE TEST	1	LS	\$ 1,925.00	\$ 1,925.00
500.9.10	SYSTEM STERILIZATION	1	LS	\$ 1,925.00	\$ 1,925.00
500.9.11	WET CONNECTION - 12"	1	EA	\$ 750.00	\$ 750.00
500.9.15	TAPS - WATER SERVICE - SINGLE SERVICE SHORT	4	EA	\$ 1,271.93	\$ 5,087.72
500.9.15	TAPS - WATER SERVICE - DOUBLE SERVICE SHORT	31	EA	\$ 1,750.47	\$ 54,264.57
500.9.15	TAPS - WATER SERVICE - SINGLE SERVICE LONG	5	EA	\$ 2,329.03	\$ 11,645.15
500.9.15	TAPS - WATER SERVICE - DOUBLE SERVICE LONG	42	EA	\$ 2,856.65	\$ 119,979.30
500.9.17	STANDARD BLOW-OFF	3	EA	\$ 1,670.90	\$ 5,012.70
500.9.19	CONCRETE TRENCH CAP AND ENCASEMENT	75	LF	\$ 27.50	\$ 2,062.50
508.3.1	STEEL CASING PIPE	150	LF	\$ 164.78	\$ 24,717.00
512.6.1	JACKING OR BORING PIPE	150	LF	\$ 552.56	\$ 82,884.00
1100.9.1	TRENCH SAFETY, ALL DEPTHS	13,304	LF	\$ 0.50	\$ 6,652.00
<b>TOTAL WATER SYSTEM IMPROVEMENTS</b>				<b>\$</b>	<b>1,141,836.40</b>

## Exhibit “C” – Construction Estimate (Page 5 of 11)

### THE GREGG RANCH AT MARBLE FALLS PHASE 1 CONSTRUCTION ESTIMATE MARBLE FALLS, TEXAS

#### UNIT PRICE SCHEDULE

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WASTEWATER SYSTEM IMPROVEMENTS					
700.8.1	PIPE, 12" SDR-26 PVC GRAVITY MAIN (0'-6' CUT)	1,885	LF	\$ 48.54	\$ 91,497.90
700.8.1	PIPE, 12" SDR-26 PVC GRAVITY MAIN (6'-8' CUT)	1,445	LF	\$ 49.64	\$ 71,729.80
700.8.1	PIPE, 12" SDR-26 PVC GRAVITY MAIN (8'-10' CUT)	305	LF	\$ 51.83	\$ 15,808.15
700.8.1	PIPE, 12" SDR-26 PVC GRAVITY MAIN (10'-12' CUT)	175	LF	\$ 53.74	\$ 9,404.50
700.8.1	PIPE, 12" SDR-26 PVC GRAVITY MAIN (12'-14' CUT)	174	LF	\$ 58.77	\$ 10,225.98
700.8.1	PIPE, 12" SDR-26 PVC GRAVITY MAIN (14'-16' CUT)	238	LF	\$ 65.09	\$ 15,491.42
700.8.1	PIPE, 10" SDR-26 PVC GRAVITY MAIN (6'-8' CUT)	98	LF	\$ 32.32	\$ 3,167.36
700.8.1	PIPE, 10" SDR-26 PVC GRAVITY MAIN (8'-10' CUT)	587	LF	\$ 34.51	\$ 20,257.37
700.8.1	PIPE, 10" SDR-26 PVC GRAVITY MAIN (10'-12' CUT)	172	LF	\$ 36.41	\$ 6,262.52
700.8.1	PIPE, 8" SDR-26 PVC GRAVITY MAIN (0'-6' CUT)	2,477	LF	\$ 31.21	\$ 77,307.17
700.8.1	PIPE, 8" SDR-26 PVC GRAVITY MAIN (6'-8' CUT)	2,901	LF	\$ 32.31	\$ 93,731.31
700.8.1	PIPE, 8" SDR-26 PVC GRAVITY MAIN (8'-10' CUT)	1,754	LF	\$ 34.50	\$ 60,513.00
700.8.1	PIPE, 8" SDR-26 PVC GRAVITY MAIN (10'-12' CUT)	417	LF	\$ 36.40	\$ 15,178.80
700.8.1	PIPE, 8" SDR-26 PVC GRAVITY MAIN (12'-14' CUT)	146	LF	\$ 41.44	\$ 6,050.24
700.8.1	PIPE, 8" SDR-26 PVC GRAVITY MAIN (14'-16' CUT)	154	LF	\$ 47.75	\$ 7,353.50
700.8.1	PIPE, 8" SDR-26 PVC GRAVITY MAIN (16'-18' CUT)	48	LF	\$ 57.50	\$ 2,760.00
700.8.2	CONCRETE TRENCH CAP AND ENCASEMENT	50	LF	\$ 27.50	\$ 1,375.00

## Exhibit "C" – Construction Estimate (Page 6 of 11)

### THE GREGG RANCH AT MARBLE FALLS PHASE I CONSTRUCTION ESTIMATE MARBLE FALLS, TEXAS

#### UNIT PRICE SCHEDULE

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700.8.11	SERVICE LEAD - SINGLE SERVICE	22	EA	\$ 2,171.75	\$ 47,778.50
700.8.11	SERVICE LEAD - DOUBLE SERVICE	67	EA	\$ 2,349.07	\$ 157,387.69
700.8.15	WASTEWATER LINE CONNECTION	1	EA	\$ 2,750.00	\$ 2,750.00
820.7.1	WW STANDARD MANHOLE	66	EA	\$ 3,652.00	\$ 241,032.00
820.7.2	WW DROP CONNECTION MANHOLE	3	EA	\$ 4,250.40	\$ 12,751.20
820.7.3	WW EXTRA MANHOLE DEPTH	90	LF	\$ 348.15	\$ 31,333.50
508.3.1	STEEL CASING PIPE	155	LF	\$ 113.91	\$ 17,656.05
512.6.1	JACKING OR BORING PIPE	155	LF	\$ 462.89	\$ 71,747.95
1100.9.1	TRENCH SAFETY, ALL DEPTHS	12,976	LF	\$ 2.00	\$ 25,952.00
<b>TOTAL WASTEWATER SYSTEM IMPROVEMENTS</b>				<b>\$</b>	<b>1,116,502.91</b>
<b>DRAINAGE SYSTEM IMPROVEMENTS</b>					
600.5.1	PIPE RCP CLASS III STORM SEWER MAIN 36"	677	LF	\$ 109.01	\$ 73,799.77
600.5.1	PIPE RCP CLASS III STORM SEWER MAIN 24"	762	LF	\$ 64.10	\$ 48,844.20
600.5.1	PIPE RCP CLASS III STORM SEWER MAIN 18"	4,472	LF	\$ 53.98	\$ 241,398.56
625.7.1	CONCRETE JUNCTION BOX (3.5' X 3.5')	26	EA	\$ 2,681.66	\$ 69,723.16
625.7.1	CONCRETE JUNCTION BOX (3.5' X 4.0')	6	EA	\$ 3,306.96	\$ 19,841.76
625.7.1	CONCRETE JUNCTION BOX (4.0' X 4.0')	1	EA	\$ 3,494.70	\$ 3,494.70
625.7.1	CONCRETE JUNCTION BOX (3.5' X 5.0')	2	EA	\$ 5,351.50	\$ 10,703.00

## Exhibit “C” – Construction Estimate (Page 7 of 11)

### THE GREGG RANCH AT MARBLE FALLS PHASE 1 CONSTRUCTION ESTIMATE MARBLE FALLS, TEXAS

#### UNIT PRICE SCHEDULE

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625.7.1	CONCRETE JUNCTION BOX (4.0' X 5.0')	1	EA	\$ 4,440.70	\$ 4,440.70
TxDOT 465.5.B	10' CURB INLET	50	EA	\$ 3,914.21	\$ 195,710.50
TxDOT 465.5.C	5' INLET EXTENSION	12	EA	\$ 2,498.10	\$ 29,977.20
TxDOT 467.5	SAFETY END TREATMENT (36" RCP)	1	EA	\$ 3,884.10	\$ 3,884.10
TxDOT 467.5	SAFETY END TREATMENT (24" RCP)	1	EA	\$ 2,471.70	\$ 2,471.70
TxDOT 467.5	SAFETY END TREATMENT (18" RCP)	2	EA	\$ 1,765.50	\$ 3,531.00
250.5.1	ROCK RIPRAP	290	SY	\$ 33.00	\$ 9,570.00
TxDOT 461.5	GABION MATTRESSES, GALVANIZED	53	SY	\$ 66.00	\$ 3,498.00
200.5.1	EXCAVATION - CHANNEL GRADING	1,915	CY	\$ 10.68	\$ 20,452.20
220.4.1	EMBANKMENT - LOT FILL	0	CY	\$ -	\$ -
1100.9.1	TRENCH SAFETY, ALL DEPTHS	5,911	LF	\$ 0.50	\$ 2,955.50
<b>TOTAL DRAINAGE SYSTEM IMPROVEMENTS</b>				<b>\$</b>	<b>744,296.05</b>
<b>POND IMPROVEMENTS</b>					
200.5.1	EXCAVATION	22,136	CY	\$ 9.20	\$ 203,651.20
220.4.1	EMBANKMENT	735	CY	\$ 3.30	\$ 2,425.50
910.8.1	REVEGETATION, SEEDING, BERMUDA	21,419	SY	\$ 1.79	\$ 38,340.01
TxDOT 461.5	GABIONS, GALVANIZED	215	CY	\$ 106.22	\$ 22,837.30
	PERFORATED PVC RISER PIPE WITH PAD AND TRASH RACK - PER DETAIL	1	LS	\$ 1,650.00	\$ 1,650.00

## Exhibit “C” – Construction Estimate (Page 8 of 11)

### THE GREGG RANCH AT MARBLE FALLS PHASE 1 CONSTRUCTION ESTIMATE MARBLE FALLS, TEXAS

#### UNIT PRICE SCHEDULE

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500.9.3	PIPE, PVC 6" SCH. 40	545	LF	\$ 24.20	\$ 13,189.00
500.9.4	GATE VALVES, 6" DIAMETER	1	EA	\$ 1,100.00	\$ 1,100.00
TxDOT 467.5	SAFETY END TREATMENT (6" PVC)	1	EA	\$ 825.00	\$ 825.00
300.16.1	CONCRETE, CLASS B (RIPRAP)	389	SY	\$ 49.50	\$ 19,255.50
300.16.1	CONCRETE, CLASS C (OVERFLOW WEIR, COMPLETE)	12	CY	\$ 715.00	\$ 8,580.00
	FIXED VERTICAL SEDIMENT DEPTH MARKER	1	EA	\$ 550.00	\$ 550.00
<b>TOTAL POND IMPROVEMENTS</b>				<b>\$</b>	<b>312,403.51</b>
<b>EROSION &amp; SEDIMENT CONTROL</b>					
210.5.3	TOPSOIL	5,026	CY	\$ 6.05	\$ 30,407.30
910.8.1	REVEGETATION, SEEDING, BERMUDA	30,156	SY	\$ 1.10	\$ 33,171.60
910.8.2	REVEGETATION, SODDING, BERMUDA	5,000	SY	\$ 4.95	\$ 24,750.00
920.3.1	ROCK FILTER DAM, TYPE III	120	LF	\$ 30.00	\$ 3,600.00
930.3.1	ROCK CONSTRUCTION ENTRANCES / EXITS	2	EA	\$ 1,000.00	\$ 2,000.00
940.3.1	TREE PROTECTION - WOOD SLATS	1	LS	\$ 500.00	\$ 500.00
900.5.1	SILT FENCE	3,372	LF	\$ 2.00	\$ 6,744.00
905.5.1	CONCRETE WASHOUTS	1	EA	\$ 200.00	\$ 200.00
901.5.1	CURB INLET PROTECTION	560	LF	\$ 6.00	\$ 3,360.00
<b>TOTAL EROSION &amp; SEDIMENT CONTROL</b>				<b>\$</b>	<b>104,732.90</b>

## Exhibit “C” – Construction Estimate (Page 9 of 11)

### THE GREGG RANCH AT MARBLE FALLS PHASE 1 CONSTRUCTION ESTIMATE MARBLE FALLS, TEXAS

#### UNIT PRICE SCHEDULE

The Pay Item reference indicates the controlling specification for each Pay Item of K.C. Engineering, Inc. Standard Specifications (3rd Edition). Pay Items containing a reference to TxDOT are from Texas Department of Transportation Standard Specifications for Construction and Maintenance of

MISCELLANEOUS WORK ITEMS					
401.5.1	SAW CUT	160	LF	\$ 2.20	\$ 352.00
TxDOT 496.1	CONCRETE REMOVAL	8	SY	\$ 55.00	\$ 440.00
401.5.2	PAVEMENT REMOVAL	200	SY	\$ 4.40	\$ 880.00
TxDOT 496.1	SIDEROAD PIPE REMOVAL	62	LF	\$ 11.00	\$ 682.00
TxDOT 496.1	SAFETY END TREATMENT REMOVAL	4	EA	\$ 165.00	\$ 660.00
401.5.3	PAVEMENT RECONSTRUCTION	50	SY	\$ 55.00	\$ 2,750.00
600.5.1	PIPE CMP CULVERT 18"	34	LF	\$ 66.00	\$ 2,244.00
TxDOT 467.1	SAFETY END TREATMENT - 18" CMP	2	EA	\$ 2,354.00	\$ 4,708.00
750.10.1	LOCATING EXISTING UNDERGROUND FACILITIES	1	LS	\$ 2,200.00	\$ 2,200.00
2100.7.3	FENCE DETAIL 3 - 9 STRAND INSTALLATION OF H-BRACES, RECONNECTION AND RE- STRETCHING OF EXISTING FENCE	95	LF	\$ 11.00	\$ 1,045.00
2100.7.5	REMOVAL AND DISPOSAL OF EXISTING FENCE	9	EA	\$ 1,100.00	\$ 9,900.00
2100.7.6	FENCE GATE - SINGLE 16' GATE DETAIL	2,463	LF	\$ 3.30	\$ 8,127.90
2100.7.8	CATTLE PANELS	2	EA	\$ 275.00	\$ 550.00
2100.7.10		40	LF	\$ 22.00	\$ 880.00
<b>TOTAL MISCELLANEOUS WORK ITEMS</b>				<b>\$</b>	<b>35,418.90</b>

## Exhibit “C” – Construction Estimate (Page 10 of 11)

### THE GREGG RANCH AT MARBLE FALLS PHASE I CONSTRUCTION ESTIMATE MARBLE FALLS, TEXAS

#### UNIT PRICE SCHEDULE

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ELECTRIC / ILLUMINATION					
3000.6.1	ILLUMINATION ASSEMBLIES	26	EA	\$ 1,896.15	\$ 49,299.90
3000.6.2	POLE FOUNDATIONS	26	EA	\$ 600.00	\$ 15,600.00
3000.6.3	WIRING	2,500	LF	\$ 3.30	\$ 8,250.00
230.15.1	TRENCH - PRIMARY (THREE PHASE) CONDUIT CONFIGURATION	4,784	LF	\$ 6.60	\$ 31,574.40
230.15.1	TRENCH - PRIMARY CONDUIT CONFIGURATION	7,771	LF	\$ 5.50	\$ 42,740.50
230.15.1	TRENCH - SECONDARY CONDUIT CONFIGURATION	3,015	LF	\$ 6.60	\$ 19,899.00
3000.6.4	CONDUIT - 1" (STREET LIGHTING)	2,500	LF	\$ 1.65	\$ 4,125.00
3000.6.4	CONDUIT - 3"	20,000	LF	\$ 2.61	\$ 52,200.00
3000.6.4	CONDUIT - 4"	19,000	LF	\$ 3.25	\$ 61,750.00
3000.6.7	ILLUMINATION TESTING AND CONFIGURATION	1	LS	\$ 3,300.00	\$ 3,300.00
PEC-URD	74 ENCLOSURE AND PAD	8	EA	\$ 2,750.00	\$ 22,000.00
PEC-URD	56 ENCLOSURE AND PAD	4	EA	\$ 2,200.00	\$ 8,800.00
PEC-URD	COMBINATION PAD	3	EA	\$ 6,660.50	\$ 19,981.50
PEC-URD	TRANSFORMER CONCRETE PADS	27	EA	\$ 1,320.00	\$ 35,640.00
PEC-URD	SECONDARY ENCLOSURES	76	EA	\$ 330.00	\$ 25,080.00
2100.7.4	MISCELLANEOUS FENCE (WOODEN PRIVACY FENCE AROUND CLEER SYSTEM)	72	LF	\$ 33.00	\$ 2,376.00
<b>TOTAL ELECTRIC / ILLUMINATION</b>				<b>\$</b>	<b>402,616.30</b>

# Exhibit "C" – Construction Estimate (Page 11 of 11)

## THE GREGG RANCH AT MARBLE FALLS PHASE I CONSTRUCTION ESTIMATE MARBLE FALLS, TEXAS

### UNIT PRICE SCHEDULE

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TOTAL ESTIMATE (SUM OF ITEMS ABOVE)	\$ 5,579,008.40



*D. Martin Stary*  
07-26-19

K.C. Engineering, Inc.  
Firm # F-000277

**February 4, 2020**

**7. REGULAR AGENDA**

- (a) Public Hearing, Discussion and Action on Ordinance 2020-O-02A, an ordinance amending and replacing Chapter 5 Article III (Special Events) of the Code of Ordinances in it's entirety and adopting Chapter 5 Article III (Special Event Regulations). Erin Burks, Downtown Coordinator
-



**Council Agenda Item Cover Memo**  
**February 4, 2020**

**Agenda Item No.:** 7(a)  
**Presenter:** Erin Burks  
**Department:** Administration  
**Legal Review:**

**AGENDA CAPTION**

Public Hearing, Discussion and Action on Ordinance 2020-O-02A, an ordinance amending and replacing Chapter 5 Article III (Special Events) of the Code of Ordinances in its entirety and adopting Chapter 5 Article III (Special Event Regulations).

**BACKGROUND INFORMATION**

The City recognizes the need to encourage and promote events for the greater good, cultural diversity and promotion of the City. This article is intended to provide a safe, orderly means for special events to be held within the corporate limit of the City. All regulations of this article are deemed necessary for the protection of the health, safety and general welfare of the volunteers, members, and their patrons.

Due to their size and special requirements, some gatherings or organized activities may place unique demands on resources or pose a danger to public health, safety, or welfare. In order to plan for these demands on public resources and to ensure that public health and safety is protected, it is necessary that the city receive advance notice of these special events. The provisions of this article are intended to address those concerns and are not intended to place unnecessary burden on any individual's right to association or freedom of expression.

**ORDINANCE NO. 2020-O-02A**

**AN ORDINANCE AMENDING CHAPTER 5, AMUSEMENTS AND ENTERTAINMENT, ARTICLE III, SPECIAL EVENTS, SECTIONS 5-50 THROUGH SECTION 5-61 OF THE CITY OF CITY OF MARBLE FALLS CODE OF ORDINANCES AND CREATING RESTRICTIONS, CONDITIONS AND PERMITTING REQUIREMENTS; PROVIDING FOR PENALTIES; PROVIDING FOR FINDINGS OF FACT; SEVERABILITY; REPEALER; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.**

**WHEREAS**, the City of Marble Falls is legally empowered to enact and amend ordinances for the protection of the health, safety and welfare of its residents and the public through the legitimate use of its police powers; and

**WHEREAS**, the City Council has determined that there is a need for amendments to those sections of the Code of Ordinances related to special events and

**WHEREAS**, the City Council believes that such amendments to the current regulations will be in the best interest of the City;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY 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 of Marble Falls and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION II. AMENDMENTS.**

A. Chapter 5, Amusements and Entertainments, Article III, Special Events, is hereby amended by repealing and replacing the language currently contained in Article III with the following sections so that Article III shall read as follows:

Sec. 5-50. Policy, Intent, and Definitions:

1) Purpose and Policy: Special events are of infrequent occurrence and temporary nature and may be associated with promotions, holidays, festivals, etc. Special events may be allowed by a special event permit granted by the City Manager or his designated representative.

2) Intent: The City recognizes the need to encourage and promote events for the greater good, cultural diversity and promotion of the City. This Article is intended to provide a safe and orderly means for special events to be held within the corporate limit of the City. All regulations of this Article are deemed necessary for the protection of the health, safety and general welfare of the volunteers, members, and their patrons.

- 3) Definitions: The following terms, when used in this Article , shall have the following meanings:
- a) “Athletic Event”, shall mean an occasion in which a group of persons collect to engage in or watch a sport or form of exercise on private or public property not designed for such activity and/or on a city street, sidewalk, alley, or other street right-of-way, which obstructs, delays or interferes with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws or controls. Athletic events include, but are not limited to, bicycle and foot races.
  - b) “Applicant”, Applicant shall include the person, or other entity applying for the special event permit.
  - c) “First Amendment Activity”, means an expressive and associative activity on public right-of-way or public property that is protected by the United States and Texas Constitutions, including speech, press, assembly, and the right to petition, but does not include commercial advertising, revenue-generating activities, fundraising, or a parade as defined herein.
  - d) “Force majeure”, means and includes fire, casualty, strikes, lockouts, labor trouble, inability to procure materials or supplies, failure of power, governmental authority, inclement weather, acts of God, war or terrorism or the potential or actual threat thereof, public safety or public welfare considerations, riots, or local, national, or international emergencies, or other reason of like nature.
  - e) “Parade”, shall mean a march or procession consisting of any number of persons, animals, or vehicles, or a combination thereof, on any city street, sidewalk, alley, or other right-of-way, which obstructs delays or interferes with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws and controls.
  - f) “Park”, means all parks and bodies of water contained therein, squares, drives, parkways, boulevards, trails, beaches, playgrounds, playfields, greenbelts, parking lots, community centers and other park, recreation and open space areas and buildings and facilities comprising the parks and recreation system of the City under the management and control of the City of Marble Falls.
  - g) “Permit Application Fee”, shall mean the fee to be paid by the special event permit applicant at the time the application is filed with the City. Such fee shall be set by the City Council.
  - h) “Permittee”, shall mean a person or entity to whom a special event permit is granted.
  - i) “Public Space”, means and includes streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, and planting (parking) strips, squares, triangles

and right-of-way for public use and the space above or beneath its surface, whether or not opened or improved.

j) “Special Event”, means a temporary event, gathering, or organized activity, including but not limited to parades, bike and foot races, block parties, street fairs, concerts, carnivals, festivals or other similar events or attractions that include one or more of the following:

- i) Commonly held outdoors; or
- ii) Interfere with the normal flow or regulation of pedestrian or vehicular traffic; or
- iii) Require special City services, including, but not limited to, street closure(s), provision of barricades, refuse services, stages, special parking arrangements, special electrical services or special safety services; or
- iv) Are held on City property.

k) “Street”, means the entire width between the boundary lines of every way publicly maintained, when any part thereof is open to use by the public for the purposes of vehicular traffic.

Sec. 5-51. Permit Required:

1) It shall be unlawful for any person to conduct or promote a special event without first having obtained a special event permit from the City.

2) The following are exempt from the provisions in this Article:

- a) Funeral or dignitary processions;
- b) Groups required by law to be so assembled;
- c) Pedestrian processions along a route that is restricted to sidewalks and crossing streets only at pedestrian crosswalks in accordance with traffic regulations and controls;
- d) An event wholly contained on private property specifically designed or suited for the event and which holds a certificate of occupancy for such including adequate parking; and
- e) Activities and events deemed by the City Manager or his designated representative to not require a special event permit.

3) It shall be unlawful for any person in charge of, or responsible for the conduct of, a special event to knowingly fail to comply with any condition of the special event permit.

4) Applicant, in tendering its application and in accepting and receiving a permit, agrees and contracts with the City that it will comply with all of the terms of the permit for the purpose of maintaining and assuring the health, safety and welfare of the residents, visitors and businesses of the City of Marble Falls.

5) The event permit shall be maintained at all times on the premises where the special event is taking place, and shall be made available to any City official upon request.

Sec. 5-52. Application and Issuance of Permit.

1) A person seeking a special event permit shall file an application with the City Manager, or designee, upon forms provided by the City within 90 days and no more than 365 days before the commencement of the proposed event. Each application must be accompanied by a nonrefundable fee as adopted by City Council and described in Appendix C, Master Fee Schedule of the Code of Ordinances. The City Manager or designated representative may consider event applications submitted after filing deadlines where good and compelling cause is shown. A Site Plan shall be included with the application showing the location and activities to take place and including, but not limited to: barricades and road closures, first aid and emergency services stations, vendors, portable restrooms, and trash receptacles.

2) The City Manager or his designated representative shall issue the special events permit once the application has been approved after review and consultation with appropriate city departments which may include police, fire, public works, building and planning, parks and recreation, and others as determined by the City Manager or designated representative, and the applicant has agreed in writing to comply with the terms and conditions of the permit.

3) The City Manager, or designee shall be responsible for issuing the permit and assuring compliance with the requirements of this Article.

Sec. 5-53. Permit Required.

1) The City Manager or designated representative may require in a special event permit application, among other provisions, reasonable terms or conditions as to the time, place and manner of the event; the implementation of a plan presented by the applicant and approved by the City for crowd control, traffic control, and security; compliance with health and sanitary regulations for the event; coordination with the Fire Department or medical personnel for emergency treatment and evacuation of people who may need immediate care, cardio-pulmonary resuscitation or ambulance service; emergency communication; fire suppression equipment with structures; maintenance of unobstructed emergency passageways; and, where traffic congestion may be anticipated, encouraging the use of public transit and car pooling. In determining conditions, the City Manager or designated representative shall consider anticipated impacts of the event based on an assessment of the event, including size, scope, complexity, and history as well as the event's or event organizer's successful implementation of conditions included in previous permits. Conditions shall be based upon projected impacts on public safety, public places and public services, but shall not be based upon the programming content of the event or message that the proposed event may convey. In order to accommodate other concurrent events, the rights of abutting owners, and the needs of the public to use streets or parks, the conditions may include, but are not limited to, reasonable adjustments in the date, time, route or location of the proposed event; accommodations of pedestrian or vehicular traffic using the street; and limitations on the duration of the event or the operating hours associated with the event.

- 2) Applicant must send notices, and provide documentation of notification, of the event to abutting property owners when in the City Manager's judgment, the special event is of a scope and nature that will impact those owners.
- 3) Applicant must provide copies of any and all additional regulatory approvals to the City prior to the event. The event must comply with all City, State and Federal laws including, but not limited to: adopted building, fire, electrical codes; noise ordinance; proper disposal of animal waste; water usage and disposal of wastewater; trash disposal and signage. Separate permits from the City may be required for any or all of the above matters.
- 4) No permit shall be granted that allows for the erection or placement of any structure, whether permanent or temporary, on a city street, sidewalk, or right-of-way unless advance approval for the erection or placement of the structure is obtained as part of the permit application.
- 5) Rides and/or attractions associated with special events shall conform to the statutory rules and regulations set forth in Chapter 21, Article 21.53 of the Texas Insurance Code, designated the Amusement Ride Safety Inspection and Insurance Act, as amended. Copies of inspection reports will be required. Additional requirements as set out in Article II, Carnivals, are also required.

Sec. 5-54. Denial or Revocation of Permit.

- 1) Denial: A special event permit may be denied based upon a determination of any of the following:
  - a) The proposed event would unreasonably disrupt the orderly or safe circulation of traffic or would present an unreasonable risk of injury or damage to the public, health or safety; or
  - b) The proposed event is proximate to another previously permitted or previously scheduled event, so that the combined impacts and required public services exceed what the City, after reasonable efforts have been made to accommodate both events, can reasonably provide; or the proposed event would interfere with construction or maintenance work in the immediate vicinity, or unreasonably infringe upon the rights of abutting properties; or
  - c) The applicant fails to comply with, or the event will violate, any City ordinance or any other applicable law;
  - d) The applicant makes or allows the making of a false or misleading statement or omission of material fact on an application;
  - e) The applicant has violated this ordinance or the special event permit requirements, or has had an event permit revoked within the preceding twelve (12) months;
  - f) The applicant refuses to agree to, abide by, or to comply with all conditions of the permit and refuses to pay any additional costs as may be required by the City.

- g) Insurance requirements for the special event cannot or have not been met;
  - h) The applicant has, on prior occasions, damaged City property and has not paid in full for such damage.
  - i) The event, would severely hinder the delivery of normal or emergency public services or constitutes a public threat or public nuisance;
- 2) Revocation: The City Manager or designated representative may cancel or revoke a permit already issued upon written notice to the applicant stating the grounds for revocation if any one or more of the following acts or omissions occur:
  - a) The applicant, in the information supplied, has made misstatement of a material fact; the applicant has failed to fulfill a term or condition of the permit in a timely manner; or the check submitted by an applicant in payment of the fee for a permit has been dishonored;
  - b) Insurance requirements for the special event have not been met;
  - c) The applicant requests the cancellation of the permit or cancels the event;
  - d) An emergency or supervening occurrence requires the cancellation or termination of the event in order to protect the public health or safety. The City shall refund the permit fee in the event of a revocation caused by an emergency or supervening occurrence; the City shall refund the balance of the fee less its costs incurred if the cancellation occurs at the request of an applicant who is in compliance with this Article;
  - e) If it is determined that any of the provisions of this Article, City ordinance, or state law is being violated or will be violated by the event;
- 3) Prior to denial of a permit, the City Manager, or designee shall consider alternatives provided by the applicant to the time, place, or manner of the special event that will allow the event to occur without posing a threat to health or safety, or otherwise violate state or local law.
- 4) The City Manager or designated representative shall act upon a complete event application within thirty (30) business days after the filing thereof. If the application is not approved, applicant will be notified via mailed letter and/or electronic communication notification, of the reasons for the permit denial. Applicants may appeal a denied permit application to the City Manager within five (5) business days of receipt of the denial notification. Upon such appeal, the City Manager may reverse, affirm, or modify in any regard the determination. The City Manager will respond to applicant with the appeal results within five (5) business days of appeal receipt.
- 5) An applicant that has appealed a permit denial in accordance with subsection (4) may appeal the denial of the permit by the City Manager or designated representative to the City Council. An appeal to the City Council must be received by the City within (5) business days of receipt of the denial notification. The appeal will be considered by the City Council at the next convenient regular council meeting.

6) The City may, in its sole discretion, postpone, cancel, suspend, or close any special event or revoke a special event permit for any force majeure event. The City shall have no liability for such postponement, cancellation, suspension, or closing. Further, the City shall have no liability for failure to postpone, cancel, suspend, or close a special event for a force majeure event or any other reason.

Sec. 5-55. Indemnification.

The applicant, permittee, and/or event sponsor(s) shall defend, indemnify, protect, and hold harmless the City, its officers, directors, employees, agents, successors, contractors, subcontractors, assigns, sponsors, and volunteers from and against any and all liens, claims, demands, loss, liability, cost (including but not limited to attorneys' fees, accountants' fees, engineers' fees, consultants' fees and experts' fees), expense, damage, and causes of action for damages because of injury to persons (including death) and injury or damage to or loss of any property or improvements arising from or caused, in whole or in part, by the acts and/or omissions of the applicant, permittee, event sponsor(s), their officers, directors, agents, employees, contractors, subcontractors, volunteers, and participants in the special event.

Sec. 5-56. Fees/Cost.

1) Fees, other than cost for policing the event, if any, as specified in this Article, shall be established by City Council. In the event the City determines, upon a review of the application, that a special event may require the special attention and involvement of City personnel or facilities, the City shall so notify the applicant. Prior to the issuance of a special event permit, the applicant shall agree in writing to pay the anticipated additional costs to the City incurred as a result of the special event within thirty (30) days of the date upon which the City invoices the applicant for the anticipated costs.

2) When the presence of law enforcement officers and/or private security, emergency medical service (EMS) and the fire department is necessary for special events, the applicant shall be responsible for the cost of providing said personnel, cost will be determined through the application process.

3) The cost or a portion of the cost of providing additional City services may be requested by the applicant and provided as in-kind services by the City upon approval from the City Manager.

Sec. 5-57. Insurance Requirements.

1) The applicant for a special event permit shall furnish the City with proof of commercial general liability insurance in the amount of one million dollars (\$1,000,000) combined single limits per occurrence, and an endorsement naming the City of Marble Falls as an additional insured must be provided.

2) Certificates of Insurance shall be submitted to the City for approval no less than fifteen (15) business days prior to the event. Acceptability of insurance is subject to approval by the City Attorney.

3) The City shall have the right to lower or increase the amount of insurance based upon the type of event, equipment, machinery, location, number of people involved, provision of alcohol, and other pertinent factors or risks associated with the special event.

4) Other insurance: If a special event includes vehicles, aircraft, boats, or other equipment, devices, or activities that are excluded from coverage in the general liability insurance policy, or create a special or increased risk, then separate additional liability insurance coverage for the applicable exclusion(s) must be provided with the same combined single limits of liability for bodily injury and property damage as outlined in the paragraphs above.

Sec. 5-58. Applicant Parking Requirements, Trailers.

1) Applicants shall describe in the site plan that parking and public transportation for the special event has been provided. The number of spaces deemed sufficient, as determined by the City Manager, will be determined by the nature of the event, number of people attending, and event staff during peak times. When adequate parking is not available at or immediately adjacent to the site, off-site parking with attendee transportation plans shall be submitted.

2) The City shall have authority, when reasonably necessary to prohibit or restrict the parking of vehicles along a street, highway, or part thereof adjacent to the site of the special event.

3) Trailers or other vehicles may be temporarily occupied as living quarters at the site of such special events. Such vehicles and trailers shall be parked not less than three hundred (300) feet from any residential district, and shall otherwise comply with all City ordinances and regulations.

Sec. 5-59: Inspections.

1) Inspections may be required to show compliance with City ordinances, the special event permit and public health, safety and welfare. Failure of a permittee to allow an inspection is grounds for revocation of the special event permit or delay to the commencement of the event.

2) Permittee must comply with and remedy or correct any conditions or situations identified by the inspector in a timely manner for the event to proceed as planned.

Sec. 5-60. First Amendment activity.

1) Persons organizing a First Amendment activity that is preplanned, scheduled, and promoted for a future date are required to obtain a special event permit from the City and must file an application at least seven (7) days before the intended event date.

2) First Amendment activities will be exempt from special event application fees and costs associated with policing the event. First Amendment activities are exempt from the insurance requirements set forth in Section 5.57.

Sec. 6-61. Nondiscrimination.

The City shall uniformly consider each application upon its merits and shall not discriminate in granting or denying permits under this Article based upon political, religious, ethnic, race, disability, sexual orientation or gender related grounds.

Sections 6-62 through 6-74 Reserved.

**SECTION III. ENFORCEMENT AND PENALTIES.** Any violation of this Ordinance shall be subject to enforcement through a fine or other penalties as set out in Chapter 1, General Provisions, Section 1-9, General penalties for violation of Code, Marble Falls Code of Ordinances.

**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 from its date of approval.

**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

**ADOPTED AND APPROVED THIS 4TH DAY OF FEBRUARY, 2020.**

**CITY OF MARBLE FALLS:**

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John Packer, Mayor

**ATTEST:**

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Christina McDonald, City Secretary

(Seal)

**APPROVED TO FORM:**

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Patty L. Akers, City Attorney



**City of Marble Falls, Texas  
Council Agenda Item Cover Memo  
February 4, 2020**

**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 §551.07 (*Private Consultation between the Council and its Attorney*) of the Open Meetings Act. *Tex. Gov't Code*, Council will meet in Executive Session to discuss the following:

- Consultation with City Attorney regarding City's authority to sell a portion of its water system
- Consultation with City Attorney regarding settlement of condemnation litigation regarding 110 and 114 Buena Vista properties

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**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 \_\_\_\_\_, 2020.

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City Attorney