



NOTICE OF MEETING
GOVERNING BODY OF MARBLE FALLS, TEXAS
Tuesday, June 16, 2020 – 6:00 pm

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

Notice is hereby given that on the 16th day of June 2020 the Marble Falls City Council will meet in regular session at 6:00 pm at the Lakeside Pavilion located at 307 Buena Vista Drive, 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**
 - Update from the Parks and Recreation Department. *Lacey Dingman, Director of Parks and Recreation*
 - Update from the Public Works Department. *James Kennedy, Director of Public Works*
- 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 June 2, 2020 regular meeting. *Christina McDonald, City Secretary*
 - (b) Approval of a contract with Langford Community Management Services for grant management services related to the Marble Falls Downtown Revitalization Grant through

the Federal Community Development Block Grant Program (CDBG) and authorizing the City Manager to execute contract. *Erin Burks, Downtown Coordinator*

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

- (a) Discussion and Action on the award of a Construction Contract with Excel Construction Services, LLC for water treatment plant improvements and authorize the City Manager to execute the contract. *Kacey Paul, City Engineer*
- (b) Discussion and Action on an amendment to the Professional Services Agreement between the City of Marble Falls and Trihydro for professional and engineering services related to water treatment plant improvements and authorize the City Manager to execute the amendment. *Kacey Paul, City Engineer*
- (c) Discussion and Action on 2nd Amendment to Memorandum of Understanding between the EDC, City of Marble Falls, and Phoenix Hospitality Group. *Christian Fletcher, EDC Executive Director*
- (d) Discussion and Action on a Professional Services Agreement between the City of Marble Falls and Doucet & Associates for design and engineering services for Phase 1b of the Parks Improvement Plan including the authorization for the City Manager to execute the Agreement. *Christian Fletcher, EDC Executive Director*

8. CITY MANAGER'S REPORT

- Update on the June 13 Marble Falls Peaceful Protest

9. EXECUTIVE SESSION

CLOSE OPEN SESSION AND CONVENE EXECUTIVE SESSION Pursuant to §551.074 (*Deliberation Regarding the Appointment, Employment, Employment Evaluation, Reassignment, Duties, discipline or Dismissal of a Public Officer or Employee or to Hear a Complaint or Charge Against an Officer or Employee*) of the Open Meetings Act. *Tex. Gov't Code*, Council will meet in Executive Session to discuss the following:

- City Manager Mike Hodge Annual Evaluation

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 11th day of June, 2020 at 11:00 am and remained so posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Christina McDonald

Christina McDonald, TRMC
City Secretary

June 16, 2020

6. CONSENT AGENDA

- (a) Approval of the minutes of the June 2, 2020 regular meeting. *Christina McDonald, City Secretary*
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**STATE OF TEXAS
COUNTY OF BURNET
CITY OF MARBLE FALLS**

On this the 2nd day of June 2020 the City Council convened in regular session at 6:00 pm at the Lakeside Pavilion located at 307 Buena Vista, Marble Falls with notice of meeting giving time, place, date, and subject having been posted as described in Chapter 551 of the Texas Government Code.

<u>PRESENT:</u>	John Packer	Mayor
	Craig Magerkurth	Councilmember
	Celia Merrill	Councilmember
	Reed Norman	Councilmember
	Rene Rosales	Councilmember
	Dave Rhodes	Councilmember
<u>ABSENT:</u>	Richard Westerman	Mayor Pro-Tem
<u>STAFF:</u>	Mike Hodge	City Manager
	Caleb Kraenzel	Assistant City Manager
	Christina McDonald	City Secretary
	Patty Akers	City Attorney
	Baron Sauls	Director of Finance
	Mark Whitacre	Chief of Police
	Valerie Kreger	Director of Development Services
	Christian Fletcher	Executive Director MFEDC
	Kacey Paul	City Engineer
	James Kennedy	Director of Public Works
	Jay Everett	Assistant Director of Public Works
	Mike Ingalsbe	Building Official
	Russell Sander	Fire Chief
	Tommy Crane	Fire Marshal
	Lacey Dingman	Director of Parks and Recreation
	Scott Bush	Parks and Recreation Superintendent

VISITORS: Connie Swinney Ridgely (The Highlander), Alex Copeland (Daily Trib), Greg Ritchie (1000 Marble Heights Drive), Dennis Goral (Willdan Financial Services), Scott Swiderski (Trihydro)

- 1. CALL TO ORDER AND ANNOUNCE QUORUM IS PRESENT.** Mayor Packer called the meeting to order and announced the presence of a quorum.

2. **INVOCATION.** Councilmember Merrill gave the invocation.
3. **PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES AND TO THE TEXAS FLAG.** Councilmember Norman led the pledges.
4. **UPDATES, PRESENTATIONS, PROCLAMATIONS AND RECOGNITIONS.** There were no updates, presentations, proclamation or recognitions.
5. **CITIZEN COMMENTS.** There were no citizen comments.
6. **CONSENT AGENDA.**
 - (a) **Approval of the minutes of the May 19, 2020 regular meeting.**
 - (b) **Approval of the acceptance of a Coronavirus Relief Fund Grant and authorize the Mayor to execute the terms and conditions.**

Councilmember Rhodes made a motion to approve the consent agenda. Councilmember Merrill seconded the motion. The motion carried by a unanimous vote. (6-0).

7. **REGULAR AGENDA.**
 - (a) **Public Hearing, Discussion, and Action on Ordinance 2020-O-05C regarding a Conditional Use Permit to allow for single family detached use within the Neighborhood Commercial (NC) District, Lot 1, Pleasant Valley Estates, City of Marble Falls Estates, City of Marble Falls, Burnet County, Texas.** Valerie Kreger, Director of Development Services addressed Council. Mayor Packer opened the public hearing. Greg Ritchie addressed Council. After discussion regarding extension of water line requirements to the property, Mayor Packer closed the public hearing and read the caption of the Ordinance.

Councilmember Merrill made a motion to grant a conditional use permit to authorize one single family residence for single family purposes on the property and to authorize water service to the property to be provided by the landowner's water well. The requirement that property tie in to the city water system upon development is deferred until one of the following events occurs and use of the water well to provide water service is conditioned on the landowner's agreement to connect to the city water system in the event that the property is used, or proposed to be used, for a purpose other than the purpose approved by this CUP, if the property is further subdivided or developed or sold for a purpose other than the purpose of the CUP, or in the event that the city's water system is extended to the owner's property line, or if the property to the east of the CUP property requests development permits from the City. If any such event occurs, the owner shall be required to connect to the City water system and pay his pro rata fair share of the costs for extension of the water line in accordance with city ordinances for extension of utilities. The CUP permit will terminate and expire if the

property is used for any purpose other than for one single family residence. However, the obligation to pay for pro rata costs of extending water to the property shall survive termination and expiration. Councilmember Magerkurth seconded the motion. The motion carried by a vote of 5-2, with Councilmembers Norman and Rhodes voting opposed.

(b) Discussion and Action on a Professional Services Agreement between the City of Marble Falls and Willdan Financial Services for professional consulting services necessary to conduct a Water and Wastewater Rate Study and authorize the City Manager to execute the agreement. Baron Sauls, Director of Finance addressed Council. Dennis Goral representing Wildan Financial Services was present. Councilmember Rhodes made a motion to approve the professional services agreement with Wildan Financial Services in the amount of \$23,680.00 and authorize the City Manager to execute the agreement. Councilmember Magerkurth seconded the motion. The motion carried by a vote of -0.

8. CITY MANAGER'S REPORT. City Manager Mike Hodge gave an update on the 2018 flood recovery.

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 legal rights and obligations associated with the Flatrock Development Agreement**

6:49 pm Convened to Executive Session

7:27 pm Returned to Open Session

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

11. ANNOUNCEMENTS AND FUTURE AGENDA ITEMS. Agenda items scheduled for the June 16, 2020 regular meeting were reviewed.

12. ADJOURNMENT. There being no further business to discuss, the meeting was adjourned at 7:28 pm.

John Packer, Mayor

ATTEST:

**Christina McDonald, TRMC
City Secretary**

DRAFT

June 16, 2020

6. CONSENT AGENDA

- (b) Approval of a contract with Langford Community Management Services for grant management services related to the Marble Falls Downtown Revitalization Grant through the Federal Community Development Block Grant Program (CDBG) and authorizing the City Manager to execute contract. *Erin Burks, Downtown Coordinator*
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Council Agenda Item Cover Memo June 16, 2020

Agenda Item: 6(b)
Presenter: Erin Burks, Downtown Coordinator
Department: Administration

AGENDA CAPTION

Approval of a contract with Langford Community Management Services for grant management services related to the Marble Falls Downtown Revitalization Grant through the Federal Community Development Block Grant Program (CDBG) and authorizing the City Manager to execute contract.

BACKGROUND

The City requested proposals for grant management services on May 27, 2020. The deadline for submission was June 1, 2020. The prospective candidate will prepare the application for the GBDC grant and if funded, they will also conduct the grant administration. We emailed Requests for Proposals to three prospects and received two proposals.

One proposal received is from Langford Community Management Services to manage the City's CDBG program entirely. Langford's proposed cost of services for grant management of the CDBG Program is a 10% of the awarded amount which is paid for by the grant.

Staff recommends awarding the contract to Langford Community Management Services to administer and manage the Marble Falls Downtown Revitalization CDBG grant program.

MANAGEMENT/ADMINISTRATION SERVICES CONTRACT

PART I AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, 2020 by and between the CITY OF Marble Falls, hereinafter called the "City", acting herein by Mike Hodge, City Manager, hereunto duly authorized, and LANGFORD COMMUNITY MANAGEMENT SERVICES, INC. hereinafter called "the Contractor", acting herein by Judy Langford, Owner.

WITNESSETH THAT:

WHEREAS, the CITY OF MARBLE FALLS desires to submit an application for a Texas Community Development Block Grant (hereinafter called "TxCDBG") Program for a Texas Community Development Fund Downtown Revitalization Program (DRP) project through the Texas Department of Agriculture (TDA); **and with funding**, desires to implement/construct the project.

WHEREAS, the City desires to engage LANGFORD COMMUNITY MANAGEMENT SERVICES, INC to render certain professional administrative services in connection with this 2020 TxCDBG DRP application/project requiring application preparation and subsequent administration of the project.

NOW THEREFORE, the parties do mutually agree as follows:

1. Scope of Services

The Contractor will perform the services set out in Part II, Scope of Services.

2. Time of Performance - The services of the Contractor shall commence on _____, 2020. In any event, all of the services required and performed hereunder shall be completed no later than two years after the contractual obligation for the funds from TDA or final close-out documentation received from the TxCDBG Program.

3. Local Program Liaison - For purposes of this Contract, the City Manager or equivalent authorized person will serve as the Local Program Liaison and primary point of contact for the Contractor. All required progress reports and communication regarding the project shall be directed to this liaison and other local personnel as appropriate.

4. Access to Information - The U.S. Department of Housing and Urban Development (HUD), Inspectors General, the Comptroller General of the United States, the Texas Department of Agriculture (TDA), and the City, or any of their authorized representatives, shall have access to any documents, papers, or other records of the Contractor which are pertinent to the TxCDBG award, in order to make audits, examinations, excerpts, and transcripts, and to close-out the City's TxCDBG contract with TDA.

5. Retention of Records - The Contractor shall retain all required records for three years after the City makes its final payment and all pending matters are closed.

6. Compensation and Method of Payment - The maximum amount of compensation and reimbursement to be paid hereunder for the preparation, development and submission of an application will be \$0.00 **and with funding of the project**, 10% of the Grant amount for the

administration and management of the project. Payment to the Contractor shall be based on satisfactory completion of identified milestones in Part III - Payment Schedule of this Agreement.

7. Indemnification – The Contractor shall comply with the requirements of all applicable laws, rules and regulations, and shall exonerate, indemnify, and hold harmless the City and its agency members from and against any and all claims, costs, suits, and damages, including attorneys' fees, arising out of the Contractor's performance or nonperformance of the activities, services or subject matter called for in this agreement or in connection with the management and administration of the TxCDBG contract, and shall assume full responsibility for payments of Federal, State and local taxes on contributions imposed or required under the Social Security, worker's compensation and income tax laws.

8. Miscellaneous Provisions
 - a. This Agreement shall be construed under and in accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Wilson County, Texas.
 - b. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement.
 - c. In any case 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, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
 - d. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.
 - e. This Agreement may be amended by mutual agreement of the parties hereto and a writing to be attached to and incorporated into this Agreement.

9. Extent of Agreement

This Agreement, which includes Parts I-IV, represents the entire and integrated agreement between the City and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral for this project. This Agreement may be amended only by written instrument signed by authorized representatives of both City and Contractor.

IN WITNESSETH WHEREOF, the parties have executed this Agreement by causing the same to be signed on the day and year first above written.

**CITY OF MARBLE FALLS
SERVICES**

LANGFORD COMMUNITY MANAGEMENT

BY: _____
(Local City Official)

Mike Hodge
(Printed Name)

City Manager
(Title)

BY: _____
(Contractor's Authorized Representative)

Judy Langford
(Printed Name)

Owner
(Title)

PART II SCOPE OF SERVICES

The Contractor shall provide the following scope of services:

Scope 1 - Application Preparation and Submission:

Grant writing and application development to include preparation of notices for paper, attendance/presentation for required public hearing, preparation of resolution authorizing submission, Regional Review Committee Scoring Criteria responses, completion of applications forms except for Table 2 and maps (to be provided by engineer) and general assistance in the development of the proposed project for the application.

Scope 2 – Management of Project with the Receipt of Funding:

A. Project Management

1. Develop a recordkeeping system consistent with program guidelines, including the establishment of a filing system.
2. Maintenance of filing system.
3. Provide general advice and technical assistance to the City personnel on implementation of project and regulatory matters.
4. Assist in the procurement of professional consulting engineering services through the request for proposal process, if applicable, and as required by the TxCDBG regulations.
5. Furnish City with necessary forms and procedures required for implementation of project.
6. Assist the City in meeting all special condition requirements that may be stipulated in the contract between the City and TDA.
7. Prepare and submit to TDA documentation necessary for amending the TxCDBG contract.
8. Conduct re-assessment of environmental clearance for any program amendments.
9. Prepare and submit quarterly reports (progress and minority hiring).
10. Prepare and submit Financial Interest Reports (FIR) for City.
11. Establish procedures to document expenditures associated with local administration of the project.
12. Provide guidance and assistance to City regarding acquisition of property:
 - Submit required reports concerning acquisition activities to TDA;
 - Establish a separate acquisition file for each parcel of real property acquired;
 - Determine necessary method(s) for acquiring real property;
 - Prepare correspondence to the property owners for the City's signature to acquire the property or to secure an easement; and
 - Assist the City in negotiation with property owner(s).
13. Maintain TxCDBG Property Management register for any property/equipment purchased or leased.
14. Serve as liaison for the City during any monitoring visit by staff representatives from either TDA or the U.S. Department of Housing and Urban Development (HUD).

B. Financial Management

1. Assist the City in proving its ability to manage the grant funds to the state's audit division.
2. Assist the City in establishing and maintaining a bank account (Direct Deposit account) and/or separate local bank account, journals and ledgers.
3. Assist the City in submitting the required Accounting System Certification letter, Direct Deposit Authorization Form (if applicable), and/or Depository/Authorized Signatory form to TDA.
4. Prepare all fund drawdowns on behalf of the City in order to ensure orderly, timely payments to all contracting parties within the allotted time period.
5. Review invoices received for payment and file back-up documentation.

6. Provide general advice and technical assistance to City personnel on implementation of project and regulatory matters.
7. Assist the City in establishing procedures to handle the use of any TxCDBG program income.

C. Environmental Review

1. Prepare environmental assessment.
2. Coordinate environmental clearance procedures with other federal or state agencies and interested parties responsible for implementing applicable laws.
3. Document consideration of any public comments.
4. Prepare any required re-assessment of environmental assessment.
5. Prepare Request for Release of Funds and certifications to be sent to TDA.

D. Acquisition

1. Prepare required acquisition reports(s).
2. Obtain documentation of ownership for City-owned property and/or Right of Way (ROWs).
3. Maintain a separate file for each parcel of real property acquired.
4. Determine necessary method(s) for acquiring real property.
5. Prepare correspondence with property owners.
6. Assist City in negotiations with property owner(s).
7. Prepare required acquisition reports and submit to TDA.

E. Construction Management

1. Establish procedures to document expenditures associated with local construction of the project (if force account is applicable).
 - Assist City in determining whether and/or what TxCDBG contract activities will be carried out in whole or in part via force account labor.
 - Assist City in determining whether or not it will be necessary to hire temporary employees to specifically carry out TxCDBG contract activities.
 - Assist City in maintaining adequate documentation of personnel, equipment and materials expended/used and their costs.
2. Assist City in documenting compliance with all federal and state requirements related to equal employment opportunity.
3. Assist City in documenting compliance with all federal and state requirements related to minimum wage and overtime pay requirements.
4. Provide assistance to or act as local labor standards officer. Notify TDA in writing of name, address, and phone number of appointed labor standards compliance officer.
5. Obtain wage rates from U.S. DOL website.
6. Provide sample TxCDBG contract documents to engineer.
7. Advertise for bids.
8. Make ten-day call to TDA.
9. Verify construction contractor eligibility with SAMS.gov.
10. Review construction contract.
11. Conduct pre-construction conference and prepare minutes.
12. Submit any reports of additional classification and rates to TDA.
13. Issue Labor Standards Record to TDA.
14. Review weekly payrolls, including compliance follow-ups. Conduct employee interviews.
15. Process change orders approved by City and the project engineer and submit to TDA prior to execution with the construction contractor.
16. Obtain Certificate of Construction Completion/Final Wage Compliance Report and submit to TDA.
17. Provide general advice and technical assistance to City personnel on implementation of project and regulatory matters.

F. Fair Housing / Equal Opportunity

1. Assist the City in developing, implementing and documenting new activities to affirmatively further fair housing during the contract period.
2. Maintain documentation of all project beneficiaries by ethnicity and gender.

3. Assist with the development and administration of the Citizen Participation Plan per 24 CFR Part 91, including grievance procedures.
4. Assist with Section 3 requirements per 24 CFR Part 135.
5. Prepare all Section 504 requirements per 24 CFR Part 8.
6. Provide all applicable equal opportunity provisions and certifications for inclusion in bid packet.
7. Ensure adoption of Excessive Force provision per 24 CFR Part 91.
8. Ensure the adequate publication of required notices.

G. Audit / Close-out Procedures

1. Prepare the final Project Completion Report, including the General Report, Recipient Beneficiary Report, Final Financial Interest Report, and any required documentation regarding citizen participation/equal rights/fair housing and Certificate of Completion.
2. Assist City in resolving any monitoring and audit findings.
3. Assist City in resolving any third-party claims.
4. Provide auditor with TxCDBG audit guidelines.

**PART III
PAYMENT SCHEDULE**

The City shall reimburse Contractor for management/administrative services provided for completion of the following project milestones per the following percentages of the maximum contract amount:

Milestone / Task	% of Contract Fee
• Establishment of Recordkeeping System	15%
• Completion of all necessary Civil Rights Activities	15%
• Environmental – release of funds	20%
• Procurement of construction contractor and submittal of Financial Interest Report(s) for construction costs	25%
• 50% completion of construction	15%
• Filing of all Required Close-out Information	10%
Total	<hr/> 100%

NOTE: Percentages of payment listed here are guidelines based on management services typically provided. The payment schedule should be tied directly to the actual Scope of Work identified in Part II - Administrative Scope of Services. Localities may also opt to reimburse Professional Services Contracts on an hourly basis.

PART IV TERMS AND CONDITIONS

1. Termination for Cause. If the Contractor fails to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor violates any of the covenants, conditions, agreements, or stipulations of this Agreement, the City shall have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof, which shall be at least five days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Contractor pursuant to this Agreement shall, at the option of the City, be turned over to the City and become the property of the City. In the event of termination for cause, the Contractor shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination.

Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of contract by the Contractor, and the City may set-off the damages it incurred as a result of the Contractor's breach of contract from any amounts it might otherwise owe the Contractor.

2. Termination for Convenience of the City. The City may terminate this Agreement at any time by giving at least ten (10) days' notice in writing to the Contractor. If this Contract is terminated for convenience, the City will pay the Contractor for actual services rendered up to the termination date, based on the charges for time, labor, expenses and other items specified in the Agreement.
3. Changes. The City may, from time to time, request changes in the services the Contractor will perform under this Agreement. Such changes, including any increase or decrease in the amount of the Contractor's compensation, must be agreed to by all parties and finalized through a signed, written amendment to this Agreement.
4. Resolution of Program Non-Compliance and Disallowed Costs. If the TxCDBG program imposes a reduction in administrative grant funds due to non-compliance and/or disallowed costs as stipulated by the agency, the contracting parties will negotiate an agreement of payment. If the non-compliance and/or disallowed costs is (are) not the fault or in control of the consulting firm, the City will be responsible for the difference in grant funds. If the negotiation phase between the contracting entities does not reach an agreement, executives of the contracting entities, with decision-making authority, will enter into mediation to facilitate a settlement by employing a skilled neutral, not to impose a solution, but to assist the parties in reaching agreement. A final binding Arbitration Phase will occur in case the non-binding phase produces no settlement.
5. Personnel.
 - a. The Contractor represents that he/she/it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.
 - b. All of the services required hereunder will be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
 - c. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.

6. Assignability. The Contractor shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereto; Provided, however, that claims for money by the Contractor from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.
7. Reports and Information. The Contractor, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.
8. Records and Audits. The Contractor shall insure that the City maintains fiscal records and supporting documentation for all expenditures of funds made under this contract in a manner that conforms to 2 CFR 200.300-.309, 24 CFR 570.490, and this Agreement. Such records must include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the funds provided under this Agreement. City shall retain such records, and any supporting documentation, for the greater of three years from closeout of the Agreement or the period required by other applicable laws and regulations.
9. Findings Confidential. All of the reports, information, data, etc., prepared or assembled by the Contractor under this contract are confidential and the Contractor agrees that they shall not be made available to any individual or organization without the prior written approval of the City.
10. Copyright. No report, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Contractor.
11. Compliance with Local Laws. The Contractor shall comply with all applicable laws, ordinances and codes of the State and local governments, and the Contractor shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
12. Conflicts of interest.
 - a. Governing Body. No member of the governing body of the City and no other officer, employee, or agent of the City, who exercises any functions or responsibilities in connection with administration, construction, engineering, or implementation of the TxCDBG award between TDA and the City shall have any personal financial interest, direct or indirect, in the Contractor or this Agreement; and the Contractor shall take appropriate steps to assure compliance.
 - b. Other Local Public Officials. No other public official who exercises any functions or responsibilities in connection with the planning and carrying out of administration, construction, engineering or implementation of the TxCDBG award between TDA and the City shall have any personal financial interest, direct or indirect, in the Contractor or this Agreement; and the Contractor shall take appropriate steps to assure compliance.
 - c. Contractor and Employees. The Contractor warrants and represents that it has no conflict of interest associated with the TxCDBG award between TDA and the City or this Agreement. The Contractor further warrants and represents that it shall not acquire an interest, direct or indirect, in any geographic area that may benefit from the TxCDBG award between TDA and the City or in any business, entity, organization or person that may benefit from the award. The Contractor further agrees that it will not employ an individual with a conflict of interest as described herein.

13. Debarment and Suspension (Executive Orders 12549 and 12689). The Contractor certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, or otherwise excluded from or ineligible for participation in federally-assisted programs under Executive Orders 12549 (1986) and 12689 (1989). The term "principal" for purposes of this Agreement is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor. The Contractor understands that it must not make any award or permit any award (or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

14. Equal Opportunity Clause (applicable to contracts and subcontracts over \$10,000).

During the performance of this contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. The Contractor will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- d. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, "Equal Employment Opportunity," and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be

imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- h. The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

15. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

16. Section 109 of the Housing and Community Development Act of 1974. The Contractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

17. Section 504 Rehabilitation Act of 1973, as amended. The Contractor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including discrimination in employment, under any program or activity receiving federal financial assistance.

18. Age Discrimination Act of 1975. The Contractor shall comply with the Age Discrimination Act of 1975 which provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Texas Community Development Block Grant

2020 TxCDBG Program Year

Phase Two Solicitation for Administrative Services

Response from Service Provider (Optional Format)

Applicant Community:	City of Marble Falls	Name of Firm Providing Proposal:	Langford Community Management Services, Inc.
Fund Category:	Downtown Revitalization Program	Firm Point of Contact:	Judy Langford
Date Proposal Submitted:	5/28/20	Total Proposed Cost:	10% of Grant Request
Conflict of Interest: (identify any actual or potential conflict of interest that must be addressed)	<input checked="" type="checkbox"/> No employee, officer or agent of the Grant Recipient or Applicant/Service Provider shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. <input type="checkbox"/> The following potential or actual conflict of interest must be addressed: <ul style="list-style-type: none"> <input type="checkbox"/> Owner or employee of the firm has a familial relationship with a local official, including the utility provider. <input type="checkbox"/> Owner or employee of the firm has financial interest in the utility provider intended to benefit from the project. <input type="checkbox"/> Other _____ 		
Cost Category		Proposed Fee	Self-Performed or Subcontracted
Pre-application Costs (not payable or reimbursable with TxCDBG funds)			
Preparation and submittal of grant application		0.00	Self-performed
Basic Services (all grant administration contracts)			
Environmental review		20% of Total Proposed Cost	Self-performed
Assistance in procurement process		10% of Total Proposed Cost	Self-performed
Preparation and submittal of drawdown requests		10% of Total Proposed Cost	Self-performed
Record keeping		15% of Total Proposed Cost	Self-performed
Preparation and submittal of reports as required		10% of Total Proposed Cost	Self-performed
Contract management		15% of Total Proposed Cost	Self-performed
Preparation and submittal of close-out documents		10% of Total Proposed Cost	Self-performed
Other Services (include only applicable services)			
Housing activities		N/A	

OSSF activities	N/A	
Acquisition of real property services	N/A	
Labor standards	10% of Total Proposed Cost	Self-performed
Other Fees		
List any other fees necessary to successfully complete a project (add rows as necessary). None anticipated		
Proposed Scope of Services		
Check services proposed for the anticipated TxCDBG project (add rows as necessary).		
<p>Application Preparation Services</p> <ul style="list-style-type: none"> ✓ Provide general advice and technical assistance in preparing the application in conformance with TxCDBG program requirements; ✓ Prepare beneficiary documentation in conformance with TxCDBG program requirements; and ✓ Ensure the completed application is submitted to TDA on or before the application deadline. ✓ Other: Langford Community Management Services, Inc. (LCMS) will assist/prepare required pictures and letters from benefitting businesses required for application. Prepare public hearing notice/second notice and send to the newspaper, prepare resolution to submit application, assist City with Request for Qualifications for Engineering and complete and submit application. <p>Basic Contract Implementation Services</p> <ul style="list-style-type: none"> ✓ Provide general advice and technical assistance on regulatory matters and implementing project activities included in the approved grant application in conformance with TxCDBG program requirements; ✓ Assist in the procurement process such as preparing notices and solicitation of bids for engineering, construction activities, or other grant-related services; ✓ Assist in meeting financial, administrative, and bookkeeping requirements of the TxCDBG program, including review of invoices received for payment, preparation of grant fund drawdown requests and retention of all pertinent records and documents sufficient to reflect all charges submitted; ✓ Assist in meeting record keeping requirements of the TxCDBG program, including the establishment and maintenance of an acceptable filing system; ✓ Assist in contract administration and monitoring requirements of the TxCDBG program, including enforcement of compliance requirements; ✓ Assist in the environmental review process for the proposed project, including preparing and submitting necessary documentation to the appropriate agency for clearance or approval, and preparing Request for Release of Funds and required certifications and submitting them to TDA; ✓ Assist in meeting all special condition requirements stipulated in the grant contract; ✓ Act as a liaison between the local government, construction contractors, and TDA to ensure an efficient, smoothly managed program; ✓ Monitor the work of authorized contractors and subcontractors. ✓ Furnish necessary forms and submit all required reports as outlined in the grant contract; ✓ Prepare and submit any program amendments, including re-assessments of environmental clearances, as necessary during the duration of the project; and ✓ Prepare and coordinate the submission of appropriate documents for TxCDBG contract close-out and completion. 		

- ✓ Assist in developing, implementing and documenting new activities to affirmatively further fair housing during the grant term;
- ✓ Other: **LCMS works diligently to administer a TxCDBG project completely. With funding of project, we provide the City a set of files to keep at the City, which we will maintain during visits. LCMS then keep a duplicate set of files at our offices to seamlessly administer the program with the City. We provide a level of service that reduces the staff's time with the program to only signing vouchers and forms as required by the program.**

Assistance for Acquisition of Real Property

- ✓ Provide guidance regarding real property acquisition activities and assistance in meeting real property acquisition/URA requirements, including preparation of correspondence to property owners, and preparation and submission of required reports to TDA.
- ✓ Other: **For Downtown Revitalization Projects, no acquisition is anticipated, however if necessary, will assist City with all required documentation.**

Compliance with federal Labor Standards

- ✓ Provide guidance regarding federal labor standards and assistance in meeting Davis-Bacon Act and related federal labor laws; and
- ✓ Serve as Labor Standards Officer for the project.
- ✓ Other: **As Labor Standards Officer, Langford Community Management Services, Inc. (LCMS) will receive and oversee all construction payrolls for accuracy and complete required on-site interviews. We also complete the 10-day call process, request for wage rates and review of construction manuals for inclusion of all TDA required documents.**

June 16, 2020

7. REGULAR AGENDA

- (a) Discussion and Action on award of a construction contract with Excel Construction Services, for water treatment plant improvements and authorize the City Manager to execute the contract. *Kacey Paul, City Engineer*
-



Council Agenda Item Cover Memo
June 16, 2020

Agenda Item No.: 7(a)
Presenter: Kacey Paul, P.E., City Engineer
Department: Engineering
Legal Review:

AGENDA CAPTION

Discussion and Action on award of a construction contract with Excel Construction Services, for water treatment plant improvements and authorize the City Manager to execute the contract.

BACKGROUND INFORMATION

This purpose of this item is to discuss and take action on the construction contract for the water treatment plant clarifier repair and upgrade to the high service pump station. This is an adopted project in the Capital Improvement Plan 2019-2023, and bonds were sold to cover the project design and construction in Summer 2019. The total proposed construction budget for the project is \$1,300,000.

This project will include removal and replacement of the original clarifier equipment, including increasing the size of the intake pipe from 18" to 30". It will also include upgrading one pump at the high service pump station from 1,000 gallons per minute (gpm) to 1,667 gpm. This will increase pumping capacity by roughly 950,000 gallons per day and provide overall pumping capacity for the permitted plant capacity of 4.8 million gallons per day.

It is anticipated that construction will begin 12-16 weeks from issuing notice to proceed, as equipment lead times are extensive for the project. Construction should be completed in December 2020/Early 2021.

This was a public bid process that closed on May 21st. The City received 5 bids for the project. The bid tabulation is attached to this document. The top 3 bidders were:

- Excel Construction \$1,233,967
- Associated Construction Partners \$1,278,750
- Keystone Construction \$1,364,400

After review, Trihydro, the design engineering firm, recommended project award to the low bidder, Excel Construction Services, LLC. The recommendation and supporting documentation are attached to this document.

Excel Construction was the contractor for the Water Treatment Plant Phase 3, and the Wastewater Treatment Plant expansion, both of which involved installation of new clarifiers.

RECOMMENDATION

City staff recommends approval of the construction contract with Excel Construction Services, LLC in the amount of \$1,233,967 for the water treatment plant clarifier repair & high service pump station upgrade, to be executed by Mike Hodge, City Manager.

Memo Contents:

- | | |
|-------------------------------------|---------------|
| • Bid Tabulation | Page 3 |
| • Engineers Recommendation of Award | Pages 4 - 28 |
| • Draft Contract | Pages 29 - 35 |



May 26, 2020

Kacey Cubine Paul, P.E., CFM
City Engineer, City of Marble Falls
1808 Second Street
Marble Falls, Tx. 78654

RE: City of Marble Falls Water Treatment Plant Improvements Project
Recommendation of Award

Dear Ms. Paul:

City of Marble Falls (City) Water Treatment Plant Improvements Project (Project) bids were publicly opened and read aloud Thursday May 21, 2020. Trihydro Corporation (Trihydro) verified the five bids complied with the bid requirements and reviewed for bid errors. All bids were deemed acceptable. Trihydro subsequently tabulated Project bids to determine the successful low bidder. The apparent low bidder is Excel Construction Services (Excel) from Leander, Texas with a Total Base Bid Price of \$1,233,967.00.

Trihydro personnel have built a professional relationship with Excel lasting more than 20 years. Excel has consistently maintained a courteous and professional approach on municipal construction projects and are qualified to perform the Project improvements. Additionally, Excel is familiar with the City Water Treatment Plant site and the proposed improvements scope having installed the Water Treatment Plant Clarifier Number Two in 2016.

Trihydro and the City discussed the Alternate Bid item, installing a second High Service Pump, following the bid opening. Although the additional \$132,825.00 pump cost is reasonable, the City's budgetary concerns exclude adding the High Service Pump Alternate Bid. Therefore, Trihydro recommends awarding Excel Construction Services the Water Treatment Plant Improvements Project for the base bid amount of \$1,233,967.00.



Ms. Kacey Cubine Paul, P.E., CFM
May 26, 2020
Page 2

The information contained herein and in the enclosed attachments is provided to the City for reference and use in your decision to award the Water Treatment Plant Improvements contract. Thank you for the opportunity to be of service to the City.

Sincerely,
Trihydro Corporation

A handwritten signature in blue ink, appearing to read "Scott A. Swiderski".

Scott Swiderski, P.E., CCM
Senior Engineer

68X-001-001

Attachments

cc: James Kennedy – Public Works Director
Jay Everett – Assistant Public Works Director
Jeff Felps – Water Plant Superintendent

CITY OF MARBLE FALLS WATER TREATMENT PLANT IMPROVEMENTS

BID TABULATION

OWNER	CITY OF MARBLE FALLS	BID SECURITY		X		X		X		X		X	
PROJECT NAME	WATER TREATMENT PLANT IMPROVEMENTS	PROJECT REFERENCES		X		X		X		X		X	
LOCATION	2502 CIRCLE DRIVE, MARBLE FALLS, TX 78654	FORM INCL. ACKNOWLEDGEMENT OF ADDENDUMS		X		X		X		X		X	
ENGINEER	TRIHIDRO CORPORATION	TEXAS ETHICS COMMISSION FORM 1294		X		X		X		X		X	
BID DATE	THURSDAY, MAY 21, 2020	TEXAS HOUSE BILL 89 VERIFICATION FORM		X		X		X		X		X	
BID TIME	10:00 A.M.	TEXAS SENATE BILL 252 CERTIFICATION FORM		X		X		X		X		X	
PROJECT NO.	68X-001-002	CONTRACTOR'S NAME		Associated Construction Partners, Ltd		Austin Engineering Co., Inc		Excel Construction Services, LLC		Keystone Construction		PGC General Contractors, LLC	
REF NO.	ITEM DESCRIPTION	QTY	UNIT	UNIT PRICE	BID	UNIT PRICE	BID	UNIT PRICE	BID	UNIT PRICE	BID	UNIT PRICE	BID
1	Excavation Protection	40	LF	\$ 50.00	\$ 2,000.00	\$ 100.00	\$ 4,000.00	\$ 10.00	\$ 400.00	\$ 10.00	\$ 400.00	\$ 200.00	\$ 8,000.00
2	Furnish and Install all Materials, Permits, Equipment, Appurtenances, and Incidentals Required to Remove Clarifier No. 1 Equipment and Replace with Wawcon Reactor Clarifier, including High Service Pump No. 2 with National Pump H14MC or Approved Equal	1	LS	\$ 1,276,750.00	\$ 1,276,750.00	\$ 1,557,650.00	\$ 1,557,650.00	\$ 1,233,567.00	\$ 1,233,567.00	\$ 1,364,000.00	\$ 1,364,000.00	\$ 1,380,000.00	\$ 1,380,000.00
TOTAL BASE BID				\$ 1,278,750.00		\$ 1,561,650.00		\$ 1,233,967.00		\$ 1,364,400.00		\$ 1,388,000.00	
S-1	Furnish and install all Materials, Permits, Equipment, Appurtenances, and Incidentals Required to Remove Clarifier No. 1 Equipment and Replace with WesTech Contraflo SCX63, including High Service Pump No. 2 with National Pump H14MC or Approved Equal	1	LS	\$ 1,249,500.00	\$ 1,249,500.00	\$ 1,555,650.00	\$ 1,555,650.00	\$ 1,240,000.00	\$ 1,240,000.00	\$ 1,364,000.00	\$ 1,364,000.00	\$ 1,450,000.00	\$ 1,450,000.00
A-1	Furnish and Install all Materials, Permits, Equipment, Appurtenances, and Incidentals Required to Remove and Replace High Service Pump No. 3 with National Pump H14MC or Approved Equal	1	LS	\$ 139,500.00	\$ 139,500.00	\$ 162,000.00	\$ 162,000.00	\$ 132,825.00	\$ 132,825.00	\$ 175,000.00	\$ 175,000.00	\$ 250,000.00	\$ 250,000.00

**SECTION 00410
BID FORM**

ARTICLE 1. BID RECIPIENT

1.01 This Bid is submitted to:

Attn: Christina McDonald, City Secretary
800 Third Street
Marble Falls, Texas
78654

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

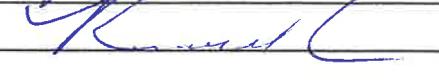
ARTICLE 2. BIDDER'S ACKNOWLEDGEMENTS

- 2.01 Bidder accepts all of the terms and conditions of the Advertisement for Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid Security. The Bid will remain subject to acceptance for ninety (90) days after the Bid Opening per Section 105.1 of the City of Marble Falls Technical Construction Standard Specifications, or for such longer period of time that Bidder may agree to in writing upon request of Owner.
- 2.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of its failure to complete Work in accordance with the schedule set forth in the Agreement.

ARTICLE 3. BIDDER'S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

- A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following Addenda:

Addendum No.	Addendum Date	Signature Acknowledging Receipt
1	4/28/20	
2	5/18/20	

- B. Bidder has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

- C. Bidder is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; and the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs.
- E. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- F. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- G. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
- H. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.
- I. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 4. BIDDER'S CERTIFICATION

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;
2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5. BASIS OF BID

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

BASE BID

Item No.	Description	Unit	Qty	Unit Price	Total Price	Total Written Price
1	Excavation Protection	LF	40	\$ 10 ⁰⁰	\$ 400 ⁰⁰	Four hundred
2	Furnish and Install all Materials, Permits, Equipment, Appurtenances, and Incidentals Required to Remove Clarifier No. 1 Equipment and Replace with Wawcon Reactor Clarifier, including High Service Pump No. 2 with National Pump H14MC or Approved Equal	LS	1	\$ 1,233,567	\$ 1,233,567	One million Two Hundred Thirty Three Thousand Five Hundred Sixty Seven
TOTAL BASE BID PRICE:					\$ 1,233,967 ⁰⁰	

One million two hundred
 Thirty Three Thousand Nine
 Hundred Sixty Seven

Bid Form
 00410-3

SUBSTITUTIVE ALTERNATE

Item No.	Description	Unit	Qty	Unit Price	Total Price	Total Written Price
S-1	Furnish and install all Materials, Permits, Equipment, Appurtenances, and Incidentals Required to Remove Clarifier No. 1 Equipment and Replace with WesTech Contraflo SCX63, including High Service Pump No. 2 with National Pump H14MC or Approved Equal	LS	1	\$1,240,000	1,240,000	One million Two hundred forty thousand

ADDITIVE ALTERNATES

Item No.	Description	Unit	Qty	Unit Price	Total Price	Total Written Price
A-1	Furnish and Install all Materials, Permits, Equipment, Appurtenances, and Incidentals Required to Remove and Replace High Service Pump No. 3 with National Pump H14MC or Approved Equal	LS	1	\$132,825	132,825	One hundred thirty thousand Eight Hundred Twenty Five

Contract award will be based on Base Bid amount with comparative analysis between Bid Item No. 2 and Substitutive Alternate (S-1), as long as all required bid document qualification statements and forms are deemed acceptable. Alternate A-1 will be evaluated and determined as part of the total project cost and awarded at the discretion of the City.

Bidder acknowledges that (1) each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and (2) estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

ARTICLE 6. TIME OF COMPLETION

6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Section 106.8.C. of the City of Marble Falls Technical Construction Standard Specifications on or before the dates or within the number of calendar days indicated in the Agreement. Contractor shall complete the project within 210 calendar days for Substantial Completion and another 30 days for Final Completion when Notice to Proceed is issued.

6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7. ATTACHMENTS TO THIS BID

7.01 The following documents are submitted with and made a condition of this Bid:

- A. Required Bid security
- B. List of Project References
- C. Texas Ethics Commission Form 1295
- D. Texas House Bill 89 Verification Form
- E. Texas Senate Bill 252 Certification Form

ARTICLE 8. DEFINED TERMS

8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders and the General Conditions in the City of Marble Falls Technical Construction Standard Specifications, and Section SP 111 Special Conditions.

ARTICLE 9. BID SUBMITTAL

BIDDER: [Indicate correct name of bidding entity]

Excel Construction Services, LLC

By: 
[Signature]

Randal Park

[Printed Name]

*(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: 
Matt Cannon Vice President
[Signature]

Matthew Cannon

[Printed Name]

Title: **Vice-President**

Submittal Date: **May 21, 2020**

Address for giving notices:

1202 Leander Drive

Leander Texas 78641

Telephone Number: **512-259-5005**

Fax Number: **512-259-5665**

Contact Name: **Randal Park**

E-mail Address: **randal@excelconstruction.com**

Bidder's License No.: **N/A**

(where applicable)

END OF SECTION

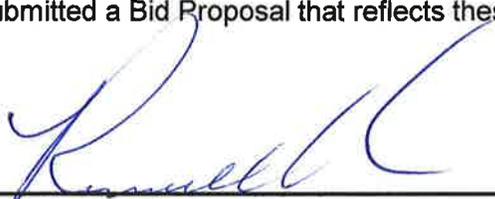
BIDDER CERTIFICATION STATEMENT:

I hereby attest that I Randal Park (Print Name)

with Excel Construction Services, LLC (Company Name) read and

understood the changes listed in this Addendum for the above referenced Project and have

submitted a Bid Proposal that reflects these changes.



Signature

5/21/20

Date

ATTACHMENTS:

Attachment No. 1 Revised Advertisement for Bid

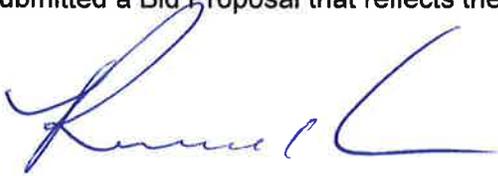
BIDDER CERTIFICATION STATEMENT:

I hereby attest that I Randal Park (Print Name)

with Excel Construction Services, LLC (Company Name) read and

understood the changes listed in this Addendum for the above referenced Project and have

submitted a Bid Proposal that reflects these changes.



5/18/20

Signature

Date

ATTACHMENTS:

- Attachment No. 1 Pre-Bid Meeting Sign-In Sheet
- Attachment No. 2 Table of Contents
- Attachment No. 3 Project Form 00420, Bid Bond
- Attachment No. 4 Project Form 00433, Project References
- Attachment No. 5 Project Form 00520, Contract Agreement
- Attachment No. 6 Project Form 00610, Performance Bond
- Attachment No. 7 Project Form 00615, Payment Bond

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
 CERTIFICATION OF FILING**

Certificate Number:
 2020-619403

Date Filed:
 05/14/2020

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Excel Construction Services, L
 Leander, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Marble Falls

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

68X-001-001
 Water Treatment Plant Improvements

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Park, Randal	Cedar Park, TX United States	X	

5 Check only if there is NO Interested Party.

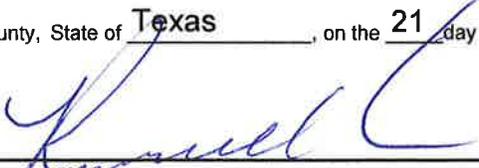
6 UNSWORN DECLARATION

My name is Randal Park, and my date of birth is 05/02/1958.

My address is 1306 Fernglade, Cedar Park, Texas 78613, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Williamson County, State of Texas, on the 21 day of May, 2020.
(month) (year)



 Signature of authorized agent of contracting business entity
 (Declarant)

**SECTION 00431
TEXAS HOUSE BILL 89 VERIFICATION FORM**

I, Randal Park, the undersigned representative of

Excel Construction Services, LLC Company or Business name

(hereafter referred to as company) being an adult over the age of eighteen (18) years of age, verify that the company named above, under the provisions of Texas Local Government Code Section 1, Subtitle F, Title 10, Government Code Chapter 2270:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the Contract the above-named company, business or individual with the City of Marble Falls; and
3. Is not currently listed on the State of Texas Comptroller's Companies that Boycott Israel List located at <https://comptroller.texas.gov/purchasing/publications/divestment.php>

Pursuant to Section 2270.001, Texas Government Code:

1. "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and
2. "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.

Excel Construction Services, LLC

Company Name


Signature of Company Representative

President

Title of Company Representative

5/21/20

Date

END OF SECTION

**SECTION 00432
TEXAS SENATE BILL 252 CERTIFICATION FORM**

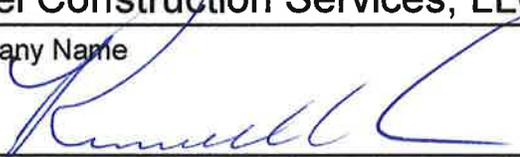
I, Randal Park, the undersigned representative of

Excel Construction Services, LLC Company or Business name

(hereafter referred to as company) being an adult over the age of eighteen (18) years of age, pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that the company named above is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify the City of Marble Falls.

Excel Construction Services, LLC

Company Name



Signature of Company Representative

President 5/21/20

Title of Company Representative

Date

END OF SECTION

**SECTION 00433
PROJECT REFERENCES**

1. PROJECT DESCRIPTION

- 1.01 Project Name Marble Falls WTP - Phase 3
- 1.02 Project Location Marble Falls, Texas
- 1.03 Owner Name City of Marble Falls
- 1.04 Owner Phone Number _____
- 1.05 Scope of Work New clarifier

- 1.06 Services Provided _____

- 1.07 Construction Cost \$1,527,000

- 1.08 Project Start and End Dates June 2015 - March 2016

2. PROJECT DESCRIPTION

- 2.01 Project Name Marble Falls WWTP Expansion
- 2.02 Project Location Marble Falls, Texas
- 2.03 Owner Name City of Marble Falls
- 2.04 Owner Phone Number _____
- 2.05 Scope of Work Various improvements including
new clarifier.

- 2.06 Services Provided _____

2.07 Construction Cost \$ 2,466,000

2.08 Project Start and End Dates January 2016 - March 2017

3. PROJECT DESCRIPTION

3.01 Project Name Numerous water & WWTP Projects

3.02 Project Location over 20 years - See attached

3.03 Owner Name _____

3.04 Owner Phone Number _____

3.05 Scope of Work _____

3.06 Services Provided _____

3.07 Construction Cost _____

3.08 Project Start and End Dates _____

4. PROJECT DESCRIPTION

4.01 Project Name _____

4.02 Project Location _____

4.03 Owner Name _____

4.04 Owner Phone Number _____

4.05 Scope of Work _____

4.06 Services Provided _____

4.07 Construction Cost _____

4.08 Project Start and End Dates _____

5. PROJECT DESCRIPTION

5.01 Project Name _____

5.02 Project Location _____

5.03 Owner Name _____

5.04 Owner Phone Number _____

5.05 Scope of Work _____

5.06 Services Provided _____

5.07 Construction Cost _____

5.08 Project Start and End Dates _____

END OF SECTION

PROJECT HISTORY LISTING



45,972

COMPLETED JOBS -

JOB #	NAME/DESCRIPTION	OWNER	CONTACT	CONTACT PHONE	ENGINEER	CONTACT	CONTACT PHONE	CONTRACT AMOUNT	START DATE	COMP DATE
0-006	LCRA 150,000 GALLON RAW WATER STORAGE TANK	LCRA	DAVID SMITH	512.473.3366	PBS&J	SCOTT TRAINER	512-342-3200	\$ 203,892	Apr-00	Dec-00
0-009	WESTPARK LIFT STATION- NEW DRYWELL/WETWELL LIFT STATION	CITY OF AUSTIN, TEXAS	RON HUMPHREY	512.322.2813	THONHOFF	BOB THONHOFF	512-328-6736	\$ 569,900	Jun-00	Jan-01
0-026	CEDAR PARK WTP PHASE III - 4 MGD EXPANSION TO WTP	CITY OF CEDAR PARK, TEXAS	KENNETH WHEELER	512.258.4121	HDR	ROGER NOACK	512-912-5100	\$ 1,906,873	Aug-00	Jul-01
1-001	LAKEWAY MUD S-4 WRP WWTP EXPANSION	LAKEWAY UTILITY DISTRICT	EARL FOSTER	512-261-6222	HDR	DUWAIN WHITIS	512-912-5100	\$ 3,483,695	Apr-01	Aug-02
1-008	CEDAR PARK WWTP FILTER PROJECT- INSTALL NEW FILTER SYSTEM	CITY OF CEDAR PARK, TEXAS	KENNETH WHEELER	512.258.4121	CDM	DAVID BRIGGS	512-346-1100	\$ 603,202	Aug-01	Dec-01
1-015	TWIN CREEKS RAW WATER SUPPLY- FLOATING RAW WATER INTAKE	TWIN CREEKS DEVELOPMENT	JOE DEQUINZIO	512.478.0017	HDR	DUWAIN WHITIS	512-912-5100	\$ 1,035,268	Dec-01	Oct-02
2-002	CEDAR PARK WTP PHASE IV- 6 MGD EXPANSION TO WTP	CITY OF CEDAR PARK, TEXAS	KENNETH WHEELER	512.258.4121	HDR	ROGER NOACK	512-912-5100	\$ 5,060,222	Mar-02	Jun-03
2-004	JONESTOWN WSC INTAKE BARGE- RAW WATER INTAKE BARGE	JONESTOWN WSC	JOHN MURCHISON	512.267.7144	DAVIS ENG	CHUCK DAVIS	512-267-5393	\$ 303,125	Mar-02	Dec-02
2-013	RIMERA LIFT STATION- NEW LIFT STATION	CITY OF CEDAR PARK, TEXAS	ERIC RAUSCHUBER	512.258.4121	LAN	SCOTT MURRAH	512-338-4212	\$ 932,209	Nov-02	Aug-03
3-004	RAW WATER PUMP REPLACEMENT- PROVIDE NEW RAW WATER PUMPS	WATER IMPR. DISTRICT #20	ROBERT FERGUSON	512.327.9204	MURFEE	DAN RYAN	512-327-9204	\$ 164,995	Mar-03	Jun-03
3-005	BLOCK HOUSE CREEK LIFT STATION- NEW LIFT STATION	CITY OF CEDAR PARK, TEXAS	ERIC RAUSCHUBER	512.258.4121	LAN	SCOTT MURRAH	512-338-4212	\$ 732,790	Jun-03	Feb-04
3-011	RAW WATER IRRIGATION SYSTEM- NEW GREENBELT IRRIGATION SYSTEM	TRAVIS UTILITY DISTRICT #3	ROBERT FERGUSON	512.327.9204	MURFEE	DAN RYAN	512-327-9204	\$ 86,692	Sep-03	Apr-04
3-013	S. PLANT EMERGENCY REPAIRS- STRUCTURAL REPAIR TO CLARIFIERS	CITY OF COPPERAS COVE, TX	BOB MCKINNON	254.547.0751	RIVER CITY	WILL PENA	512-442-3008	\$ 94,380	Aug-03	Nov-03
3-035	WEBSTER PUMP STATION- NEW WATER PUMP STATION	CITY OF CEDAR PARK, TEXAS	ERIC RAUSCHUBER	512.258.4121	CARTER BURGESS	ALAN PHILLIPS	512-314-3100	\$ 793,351	Nov-03	Oct-04
3-042	SAN MARCOS NAT'L FISH HATCHERY- NEW SYSTEM TO RECLAIM WATER	US FISH & WILDLIFE	MARK ORTON	505-248-7945	MWH	MARK ORTON	505-248-7945	\$ 1,525,926	Aug-04	Jul-05
3-050	NE & NW WWTP IMPROVEMENTS- EXPANSION TO TWO EXISTING WWTP'S	CITY OF COPPERAS COVE, TX	BOB MCKINNON	254.547.0751	RIVER CITY	WILL PENA	512-442-3008	\$ 5,344,345	Mar-04	Jun-05
4-001	CEDAR BREAKS PUMP STATION- NEW RECLAIMED WATER PUMP STATION	CITY OF LAGO VISTA, TEXAS	MJ DUKE	512.497.7269	TE HAYNIE	TIM HAYNIE	512-837-2446	\$ 515,355	Mar-04	Mar-05
4-017	SLUDGE HANDLING IMPROVEMENTS- NEW THICKENER AND PUMP STATION	CITY OF GEORGETOWN, TX	JOEL WEAVER	512.930.3555	CDM		512-346-1100	\$ 1,178,246	Sep-04	Nov-05
5-001	COMANCHE TRAIL WWTP- NEW WWTP	WCID #17/COMANCHE DEVELOP	BRIAN BIRDWELL	512.246.8181	RIVER CITY	WILL PENA	512-442-3008	\$ 1,258,000	Mar-05	Jan-06
5-011	WTP EXPANSION	CITY OF ELGIN, TX	DOUG PRINZE	512.281-5724	HUNTER ASSOC	CRAIG BELL	512-454-8716	\$ 3,868,406	Jul-05	Sep-06
5-016	2005 WTP EXPANSION- 500,000 GPD WTP EXPANSION & BOLTED STEEL GST	JONESTOWN WSC	JOHN TICHE	512.267-7144	DAVIS ENG	CHUCK DAVIS	512-267-5393	\$ 790,000	Jul-05	Feb-06
5-021	TRIMMIER CREEK LIFT STATION- NEW LIFT STATION	CITY OF HARKER HEIGHTS, TX	MARK HYDE	254.953.5600	WALLACE GROUP	JOHN KULAR	254-772-9272	\$ 1,298,000	Sep-05	Jun-06
5-029	LITTLE ELM LIFT STATION- NEW LIFT STATION	CITY OF CEDAR PARK, TX	KENNETH WHEELER	512.258.4121	DACE	DAVID ALLEN	512-347-8400	\$ 557,000	Dec-05	Jun-06
5-026	CLARIFIER IMPROVEMENTS- PAINT CLARIFIERS & REPLACE WEIRS	CITY OF CEDAR PARK, TEXAS	KENNETH WHEELER	512.258.4121	CDM	GREG SWOBODA	512-346-1100	\$ 194,479	Oct-05	Jan-06
5-030	STEINER RANCH WWTP PHASE II - WWTP EXPANSION	TAYLOR-WOODROW/WCID #17	JIM COULTER	512.266.3865	RIVER CITY	WILL PENA	512-442-3008	\$ 3,640,000	Jan-06	Mar-07
6-005	DAVIS CL2 SCRUBBER REPAIRS- REPAIRS ON SCRUBBER PIPING	CITY OF AUSTIN, TEXAS	JAMES KING	512.657.4053	HDR	BERTO RODRIGU	512-912-5100	\$ 108,870	Mar-06	May-06
6-012	AR DAVIS WTP FILTER PROCESS IMPROV & VALVE REPLACE	CITY OF AUSTIN, TX	JAMES KING	512.972.1794	LAN	JOHN MITCHELL	512-338-4212	\$ 4,894,608	Sep-06	Jul-07
6-023	AR DAVIS WTP PROCESS IMPROV & EQUIPMENT REPLACEMENT	CITY OF AUSTIN, TX	JAMES KING	512.972.1794	TURNER COLLIE	SHELBY ECHOLS	512-472-4519	\$ 2,258,507	Dec-06	Jun-07
6-024	WESTINGHOUSE ROAD TANK & WELL IMPROV	CITY OF ROUND ROCK, TX	DAVID FREIREICH	512.563.1121	CDM	BILL MARRIOT	512-346-1100	\$ 546,078	Dec-06	Jul-07
6-028	NEW HOPE WEST TANK & VALVE MOD	CITY OF CEDAR PARK, TX	KENNETH WHEELER	512.258.4121	DAVIS ENG	CHUCK DAVIS	512-267-5393	\$ 199,978	Apr-07	May-07
6-030	WEST BULL CREEK PUMP STATION	CITY OF AUSTIN, TEXAS	BILL STAUBER	512.972.0290	PARSONS	ERIC DAWSON	512-719-6029	\$ 663,346	Feb-07	May-08
7-005	2007 WTP IMPROVEMENTS	CITY OF CEDAR PARK, TX	KENNETH WHEELER	512.258.4121	HDR	ROGER NOACK	512-912-5100	\$ 676,800	May-07	Sep-07
7-014	STEINER RANCH PUMP STATION EXPANSION	WCID #17	DEBBIE GERNES	512.266.1111	RIVER CITY	WILL PENA	512-442-3008	\$ 652,568	Sep-07	Jun-08
7-015	BIG DAVE'S PUMP STATION EXPANSION	WCID #17	DEBBIE GERNES	512.266.1111	RIVER CITY	JOHN MURAS	512-442-3008	\$ 999,462	Aug-07	May-08
7-008	MONTOPOLIS SITE ODOR CONTROL IMPROVEMENTS	CITY OF AUSTIN	GARY JACKSON	512.972.7115	MALCOLM PIRNIE	STEPHANIE SUE	512-494-0058	\$ 1,233,765	Dec-07	Nov-08
7-030	CITY OF AUSTIN COMPOSITE ELEVATED TANK (SUB)	CITY OF AUSTIN	GEORGE JACKSON	512.974.7197	CDM	MATTHEW WATRIC	817-439-8888	\$ 1,511,816	May-08	Jan-10
7-035	IH 35 GROUND STORAGE TANK AND PUMPS	GBRA	GARY ASBURY	830.379.5822	TRC ENGINEERS	CHARLES SHELER	512-454-8716	\$ 1,311,225	Jan-08	Oct-08
7-037	MONTOPOLIS SHAFT & LATERALS REPAIR	CITY OF AUSTIN	GARY JACKSON	512.972.7115	MALCOLM PIRNIE	STEPHANIE SUE	512-494-0058	\$ 2,100,000	Apr-08	Oct-08
8-006	LLANO WWTP	CITY OF LLANO	FINLEY DEGRAFFENI	325-247-4158	HEJLI LEE	HERB DICKENUT	512-642-3292	\$ 4,380,400	Apr-08	May-09
8-013	JONESTOWN HI-HAT GST	JONESTOWN WSC	JOHN TISCHI	512.267.7144	DAVIS	CHUCK DAVIS	512-267-5393	\$ 299,865	Jun-08	Dec-08
8-016	CEDAR PARK BOSSTER PUMP STATION	CITY OF CEDAR PARK	JIM TOLLES	512.784.7909	HDR	ROGER NOACK	512-912-5100	\$ 243,087	Apr-08	Sep-08
8-022	SAN GABRIEL WWTP	CITY OF GEORGETOWN	MICHEAL HALLMARK	512.930.3569	CDM	JAVIER RAMIREZ	512-346-1100	\$ 3,564,878	Jul-08	Sep-08
8-025	HIGH SERVICE PUMP STATION IMPROVEMENTS	CITY OF ROUND ROCK	DON RUNDELL	512.218.5554	CDM	GREG SWOBODA	512-346-1100	\$ 940,200	Jul-08	Jun-09
8-030	SOUTH JONESTOWN HILLS PUMP STATION	JONESTOWN WSC	JOHN TISCHI	512.267.7144	DAVIS	CHUCK DAVIS	512-267-5393	\$ 955,073	Aug-08	Apr-09
9-002	FILTER MEDIA REPLACEMENT	LOOP 360 WSC	C/O ARMHURST	512-452-0371	GRAY JANSING	MIKE WILLIAMS	512-452-0371	\$ 157,235	1-Jun-09	25-Aug-09
9-010	FILTER MEDIA REPLACEMENT	RIVER PLACE MUD	C/O ARMHURST	512-452-0371	GRAY JANSING	MIKE WILLIAMS	512-452-0371	\$ 173,000	20-Apr-09	15-Sep-09
9-011	BRYANT PARK WATER IMP	CITY OF BASTROP	JAMES MILLER	512-321-2173	K FREISE	THOMAS OWENS	512-338-1704	\$ 878,915	20-May-09	15-Mar-10
9-013	CLARIFIER REHABILITATION	CITY OF ROUND ROCK	DON RUNDEL	512.218.5554	CDM	STEVE LYNK	512-346-1100	\$ 194,400	4-May-09	31-Aug-09
9-017	FINE SCREEN & PLATFORM	HAYS CO MUD #5	JEFF GARRETT	512.923.4840	DAVIS ENGINEERING	CHUCK DAVIS	512-267-5393	\$ 110,000	15-May-09	15-Sep-09
9-028	EMERGENCY INTAKE RELOCATE	CITY OF CEDAR PARK	SAM ROBERTS	512-258-4121	CoCP	SAM ROBERTS	512-258-4121	\$ 6,000,000	4-Aug-09	30-Apr-10
9-019	KINGSLAND WTP EXPANSION	KINGSLAND WSC	EARL FOSTOR	325.388.6611	SD KALLMAN	STEVE KALLMAN	512-218-4404	\$ 5,512,125	14-Aug-09	14-Aug-10
9-034	STEINER RANCH WWTP EXPANSION - 2009	TRAVIS CTY WC&ID NO 17	DEBBIE GERNES	512-266-1111	RIVER CITY	WILL PENA	512-442-3008	\$ 911,000	1-Oct-09	1-Jul-10
9-041	2009 WTP REHABILITATION PROJECT	CITY OF ROUND ROCK	JEFF BELL	512.218.5554	CDM	STEVE LYNK	512-246-1100	\$ 2,787,490	1-Nov-09	31-Dec-10

9-050	DOCK L CURB WTP IMPROVEMENTS	CTWSC	LEE KELLEY	254-698-2779	SD KALLMAN	LARRY JEZEK	512-218-4404	\$ 8,074,400	Mar-10	Jul-10	
10-003	WINDERMERE UV SYSTEM REPLACEMENT	WINDERMERE UTILITY CO	CRAIG STOWELL	512.879.0414	BROWN & GAY	CRAIG STOWELL	512-879-0414	\$ 415,000	Jul-10	Sep-10	
10-006	FILTER MEDIA & SLIDE GATE REPLACEMENT	CITY OF LLANO	FINLEY DEGRAFFEN	325-247-4158	HEJL, LEE	DAN HEJL	512-642-3292	\$ 119,300	Jul-10	Oct-10	
10-008	LITTLE RIVER WWTP	BELL COUNTY WCID NO2	BILLY EASLEY	254.913.9267	KSA ENGINEERS	JOSEPH DRAPER	512-342-8888	\$ 1,245,386	Oct-10	Apr-10	
10-009	TRAVIS CTY MUD 4 WWTP SPLITTER BOX	TRAVIS CTY MUD 4	ROBERT FERGUSON	512-327-9204	MURFEE ENGINEERS	HANK KIDWELL	512-327-9204	\$ 196,500	Feb-11	Jun-11	
10-020	BCRUA INTERIM FLOATING INTAKE FACILITIES	BCRUA	CHRIS LIPPE	512-215-9151	JACOBS	GLENN BRIDGES	512-314-3100	\$ 3,807,500	Dec-10	Dec-11	
10-032	KINGSLAND MUD WWTP IMPROVEMENTS	KINGSLAND MUD	RICK MEYERS	325.388.4559	J. MIERTSCHIN	J. MIERTSCHIN	512-327-2708	\$ 257,500	Mar-11	Aug-11	
10-037	ROUND MOUNTAIN PUMP	TRAVIS CTY WCID 17	DEBBY GERNES	512-266-1111	RIVER CITY	DAVID KNUEPER	512-442-3008	\$ 377,609	May-11	Oct-11	
11-001	TRAVIS CTY MUD 4 TRIDENT WT UNIT	TRAVIS CTY MUD 4	ROBERT FERGUSON	512-327-9204	MURFEE ENGINEERS	DENNIS LAZONA	512-327-9204	\$ 153,260	Feb-11	Aug-11	
11-011	DAVIS WTP	CITY OF AUSTIN	IMANE MRINI	512-974-7298	AECOM	IOAN CHILARESCU	512-472-4519	\$ 2,270,571	Aug-11	Apr-13	
11-014	NBU CHEMICAL PHOPHORUS REMOVAL	NEW BRAUNFELS UTILITY	IAN TAYLOR	830.608.8867	JONES & CARTER	LARRY WEPLER	512-441-9493	\$ 340,830	Oct-11	Jan-13	
11-015	NBU BELT FILTER PRESS PROJECT	NEW BRAUNFELS UTILITY	IAN TAYLOR	830.608.8867	JONES & CARTER	LARRY WEPLER	512-441-9493	\$ 1,313,250	Oct-11	Jan-13	
11-027	NBU SOLIDS HANDLING BUILDING	NEW BRAUNFELS UTILITY	IAN TAYLOR	830.608.8867	JONES & CARTER	LARRY WEPLER	512-441-9493	\$ 2,197,684	Nov-11	Mar-13	
11-028	FLOATING RAW WATER INTAKE BARGE	CITY OF CEDAR PARK	KENNETH WHEELER	512.258.4121	HDR ENGINEERING	AARON ARCHER	512-912-5100	\$ 3,013,616.00	Dec-11	Jan-16	
12-007	UPLANDS WTP TRIDENT FILTER REHAB	WEST TRAVIS COUNTY PUA	JASON TYLER	512-263-0100	MURFEE ENGINEERS	DENNIS LOZANO	512-327-9204	\$ 81,959.00	Jun-12	13-Jan	
12-015	LIBERTY HILL WELL 6 & 7	CITY OF LIBERTY HILL	BRIAN KIRK	512-778-5449	STEGER BIZZELL	AARON LAUGHLIN	512-930-9412	\$ 217,263.00	Jul-12	13-Mar	
12-024	FALLING WATER WELL IMPROVEMENT PROJECT	AQUA TEXAS	BRENT REEH	512-990-4400	BURY & PARTNERS	KELLEY FOWLER	512-328-0011	\$ 448,138.00	2-Oct	May-13	
12-028	MD ANDERSON METHANE REMOVAL	UT MD ANDERSON	HAROLD GOODSON	512-237-9303	MD ANDERSON	ARON LAUGHLI	512-930-9412	\$ 1,450,000.00	Feb-12	Sep-14	
12-031	BUSINESS ACRES PUMP STATION	CITY OF WOODWAY		254-772-4050	WALLACE GROUP	BOB WALLACE	254-772-9272	\$ 2,314,500.00	1-Oct	Dec-13	
12-032	CIRCLEVILLE PUMP STATION	JONAH SUD	BILL BROWN	512-759-1286	DUFF CONSULTING	WILLIAM ASTON	254-756-5414	\$ 713,343.00	1-Oct	Jun-13	
12-034	CIELO APARTMENTS LIFT STATION	TRI-STAR UTILITIES	JASON HOWELL	512-756-5012	BURY & PARTNERS	JASON ROBERTS	512-328-0011	\$ 450,589.00	Sep-12	Jun-13	
12-035	HIGHWAY 97 WELL IMPROVEMENTS	CITY OF GONZALES	GARY SHOCK	830-672-3525	LNW	JULIAN BIELAWSK	512.381.8333	\$ 581,625.00	1-Oct	Oct-13	
12-040	CAMP SWIFT WTP RENOVATIONS	AQUA WATER SUPPLY	DAVID FLEMING	512-581-3451	STEGER BIZZELL	AARON LAUGHLIN	512-930-9412	\$ 2,886,032.00	Oct-12	Oct-13	
12-043	FALLS CITY	CITY OF FALLS CITY	BRENT HOUDMANN	830-254-3242	LNW	JULIAN BIELAWSK	512.381.8333	\$ 275,461.00	1-Oct	May-13	
12-048	CRYSTAL FALLS ELEVATED STORAGE TANK & PUMP MODS	CITY OF LEANDER	AIMEE HANIE	817-439-8888	K FRIESE	DALE MURPHY	512-338-1704	\$ 733,772.00	Feb-13	Jan-14	
13-003	MADRONE APARTMENTS LIFT STATION	TRI-STAR UTILITIES, INC.	JASON HOWELL	512-756-5012	BURY & PARTNERS	JASON HOWELL	512-756-5012	\$542,160	14-May	14-Aug	
13-004	SAR WWTP EMERGENCY REPAIRS	CITY OF AUSTIN	STEVE PARKS	512.974.3578	CITY OF AUSTIN	STEVE PARKS	512-974-3576	\$ 556,000.00	Mar-13	Sep-13	
13-005	TRAVIS CTY MUD NO. 4 SOUTH WTP	TRAVIS COUNTY MUD #4	MATT MOORE	512-435-2300	MURFEE	HANK KIDWELL	512-327-9204	\$ 7,491,120.00	Oct-12	Aug-14	
13-007	McMAHAN WTP	AQUA WSC	DAVID FLEMING	512-303-3943	N/A	N/A	N/A	\$ 131,166.00	1-May	Aug-13	
13-014	CITY OF LLANO DISASTER RELIEF PROJECT	CITY OF LLANO	STRATUS PROPERTY	512-478-5788	HEJL LEE	CHEIN LEE	512-759-1286	\$ 318,585.00	Nov-13	Mar-14	
13-015	CEDAR CREEK PS @ DONNELL STORAGE TANK	KEMPNER WSC	DELORES GOOD	512-932-2715	STEGER BIZZELL	DJ DUBOSE	512-930-9412	\$ 422,832.00	13-Nov	14-Mar	
13-027	J2 PUMP STATION REHABILITATION	TRAVIS CTY MUD #4	HANK KIDWELL	512-327-9204	MURFEE	HANK KIDWELL	512-327-9204	\$ 836,020.00	Dec-13	Aug-14	
13-037	LAGO VISTA WTP3 INTAKE	CITY OF LAGO VISTA	DAVE STEWART	512-267-1155	HDR	SHAY RAOLSON	512-912-5100	\$ 1,766,000.00	Jan-14	Sep-16	
13-030	LANDMARK CONSERVANCY APT LIFT STATION	TRI-STAR UTILITES, INC.	JASON HOWELL	512-756-5012	BURY & PARTNERS	JASON HOWELL	512-756-5012	\$534,000	Apr-14	Aug-14	
14-003	NEVILLE LIFT STATION	WCID #17	DEBBIE GERNES	512-801-2422	VER CITY ENGINEER	WILL PENA	512-442-3008	\$269,178.00	Apr-14	Oct-14	
14-006	HUTTO WWTP LIFT STATION PIPING REPLACEMENT	BRAZOS RIVER AUTHORITY	DONALD MALOVETS	512-630-9966	BRA	DONALD MALOVET	512-630-9966	\$16,692.00	Jul-14	Dec-14	
14-017	LOCKHEED SHAFT REHAB & OTHER INSPECTION	CITY OF AUSTIN	Allison Dietzel	512-974-7098	ARCADIS	Stephanie Sue	512-527-6063	\$ 4,567,000.00	14-Nov	15-Nov	
14-023	LITTLE RIVER ACADEMY WWTP IMPROVEMENTS	BELL COUNTY WCID NO 2	BILLY EASLEY	254.913.4267	KSA ENGINEERS	ALAN DRAPER	512.342.8888	\$ 1,164,385.00	14-Aug	15-Mar	
14-047	FLINTROCK LIFT STATION "A" EXPANSION	WCID #2	DEBBIE GERNES	512.266.1111	RIVER CITY	WILL PENA	512.442.3008	\$929,113.00	12/1/2014	7/20/2015	
14-055	Reunion Ranch Lift Station	Taylor Morrison	Michael Slack	512-568-7390	Murfee Engineering	Bryce Canady	512-327-9204	\$ 478,010.00	15-Feb	15-Jul	
15-003	Shadow Creek WWTP	Hays Shadow Creek DVLP	Richard Topfer	512.259.5005	TRC Engineers	Javier Ramirez	512-684-3140	\$ 2,000,000.00	15-Mar	16-Oct	
15-005	LAKEWAY W-3 HSPS & TRANSMISSION LINES	LAKEWAY MUD	EARL FOSTER	512.261.5222	CE&C	CHRISTIANNE CASTLEBERG	512.751.9272	\$1,522,658.00	3/24/2015	11/19/2015	
15-006	NORTHWEST C PS & ELEVATED STORAGE TANK (SUB)	CITY OF AUSTIN			LARRY LEIMER WITH LANDMARK			817.905.1825	\$46,350.00	7/1/2015	9/18/2015
15-023	WATER PLANT IMPROVEMENTS - PHASE 3	CITY OF MARBLE FALLS	ERIC BELAJ	830.798.7083	S.D.KALLMAN	STEVE KALLMAN	512.218.4404	\$1,535,400.00	7/13/2015	3/8/2016	
15-030	RAW WATER INTAKE BARGE RECOMMISSIONING	BCRUA	TOM GALLIER		HDR ENGINEERING			\$424,700.00	1/1/2015	1/1/2016	
15-033	BRA Production Well	Brazos River Authority	Jose Diaz	254-761-3100	Arcadis	Mark Stendahl	972-934-3711	176000	16-Oct	Nov-16	
15-034	AE WOOD FISH HATCHERY FILTER RENOVATIONS	TEXAS PARKS & WILDLIFE	CHUCK BLUE	512.627.4337	XAS PARKS & WILD	CHUCK BLUE	512.627.4337	\$1,140,090.00	11/1/2015	5/1/2016	
15-039	HIGH SERVICE PUMP STATION IMPROVEMENTS	LONE STAR REGIONAL WATER AU	BILL LAWSON	512.740.9878	S.D. KALLMAN	STEVE KALLMAN	512.218.4404	\$735,443.00	11/19/2015	9/16/2016	
15-048	WASTEWATER TREATMENT PLANT EXPANSION	CITY OF MARBLE FALLS	ERIC BELAJ	830.798.7083	HDR	ASON CHRISTENSEN	512.912.5109	\$2,455,888.00	1/1/2016	1/14/2016	
16-014	LIFT STATION ELECTRICAL UPGRADES	CITY OF WESTLAKE	Wendy Bates	512-327-3628	K. Friese	Dale Murphy	512-338-1704	\$189,000.00	8/21/2016	10/23/2016	
16-015	CLEARWELL THM REDUCTION MODIFICATIONS	KEMPNER WATER SUPPLY	Delores Goode	512.932.3701	Steger Bizzel	Sam Davis	512.930.9412	\$ 293,700.00	TBD	1/15/2017	
16-025	LAGO TREATMENT PLANT NO. 1	LAGO VISTA									
16-028	NORTH WWTP REHAB	TC MUD #4									
16-031	WATER TREATMENT PLANT CONTROL ROOM RENOVATIONS	CITY OF CEDAR PARK	TJ Dawkins, PE	512-401-5550	Pgal	Cris Ruebush	512-236-1005	\$ 169,050.00	8/22/2016	11/1/2016	
16-033	CAUGHFIELD	WILCO MUD 32									
16-039	MONTOPOLIS RECLAIMED WATER INITIATIVE STORAGE	CITY OF AUSTIN	John Wepnykpe	512.974.7010	CH2M Hill	Tie Jenkinspe	512.249.3331	\$ 10,825,000.00	3/27/2017	5/2/2019	
16-043	RAW WATER INTAKE VALVE REPLACEMENT	TC WCID #20	Robert Ferguson	512.327.9204	MURFEE ENGINEERIN	Jason Baze	512-327-9204	\$ 87,600.00	11/1/2016	2/15/2017	
16-044	2016 HEADWORKS IMPROVEMENTS PROJECT	TC MUD NO. 16	Daniel Tatum	512.246.1400	JONES CARTER	Kathy Mitchell	512.441.9493	\$ 345,614.00	3/1/2017	10/20/2017	
16-048	CEDAR PARK 2016 WTP REHAB	CEDAR PARK									
16-049	TAYLOR LANE 0.1 MGD PROJECT	CLUB DEAL 120	Elena Cutshall	813.503.3266	SMITH TURRIETA	Susan Turrieta	512-569-9022	\$ 3,790,852.56	12/1/2016	10/27/2017	
16-055	LOST CREEK RESERVOIR REHAB	BLASTCO									

16-057	CP 2016 WRF REHAB	CEDAR PARK								
16-063	CITY OF JUNCTION FILTER REHAB	JUNCTION								
17-001	SENNA HILLS 0.1 MGD MBR WWTP EXPANSION	SENNA HILLS MUD	Kristi Hester	512-844-1041	JURFEE ENGINEERIN	Jason Baze	512-327-9204	\$ 1,205,225.00	5/2/2017	6/20/2019
17-010	AUSTIN COLONY	SWWC UTILITIES	Joe Torralva	512-219-2260	Travis Associates	Joe Etzler	512-295-3465	\$ 4,299,000.00	6/5/2017	4/20/2019
17-011	CROSSROADS									
17-015	LAGO VISTA									
17-017	KINGSLAND MUD WWTP IMPROVEMENTS PHASE 2	KINGSLAND MUD	Anita LaBier	325-388-4559	DCS Engineering	Darren Strozewski	512-614-6171	\$ 2,069,100.00	7/11/2017	9/28/2018
17-018	GEORGETOWN									
17-020	BARTLETT									
17-023	KEMPNER									
17-029	PEARCE LANE WWTP	Qualico	Vera Mascaro	512-371-8937	CBD	Gwen Gates	512-280-5160	\$ 8,542,413.00	12/4/2017	4/30/2019
17-030	LEANDER WWTP SYSTEM IMPROVEMENTS	CITY OF LEANDER	Kenley Crowder	512.259.2640	JAECO	Frank Phelan	512-259-3882	\$ 1,588,287.00	11/1/2017	10/1/2018
18-018	CLUB LIFT STATION EMERGENCY PUMP	TC MUD #4			Murfee	Eelhard Meneses	512-327-9204	\$ 147,440.00	6/27/2018	12/14/2018
18-024	BCRUA ZEBRA MUSSEL CONTROL	BCRUA	Karen Bondy	512-888-0475	Walker Partners	Joe Jenkins	512-382-0021	\$ 1,468,658.00	9/4/2018	3/22/2019

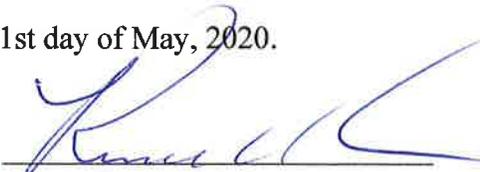
**UNANIMOUS CONSENT IN LIEU OF A SPECIAL MEETING
OF
THE BOARD OF MANAGERS
OF
EXCEL CONSTRUCTION SERVICES, LLC**

The undersigned, being all of the members of the Board of Managers of Excel Construction Services, LLC, a Texas limited liability company ("Company"), on the below stated date, acting by unanimous written consent and without a meeting pursuant to the provisions of the Texas Limited Liability Company Act and not in contravention of any provision of the Articles of Organization or Regulations of the Company, hereby adopt the following resolutions:

RESOLVED, that Randal M. Park and Matthew B. Cannon, as the President and Vice President, respectively, of the Company shall be, and each of them is hereby authorized and empowered for and in the name of the Corporation to do the following, which acts shall be fully binding upon the Corporation:

1. To enter into any lawful contract that any such officer may deem to be to the best interest or advantage of the Company, upon such terms and conditions and for such consideration as to such officer may seem proper or advisable;

Executed effective as of the 21st day of May, 2020.



Randal M. Park



Matthew B. Cannon

**SECTION 00420
BID BOND**

Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

BIDDER (Name and Address):

Excel Construction Services, LLC
1202 Leander Drive
Leander, TX 78641

SURETY (Name, and Address of Principal Place of Business):

Merchants Bonding Company (Mutual)
9500 Arboretum Blvd, Suite 100
Austin, TX 78759

OWNER (Name and Address):

City of Marble Falls
800 Third Street
Marble Falls, TX 78654

BID

Bid Due Date: May 21, 2020

Description (Project Name— Include Location): Water Treatment Plant Improvements

BOND

Bond Number: TBD

Date: May 21, 2020

Penal sum _____ five percent of the greatest amount bid _____ \$ _____ 5%
(Words) (Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

BIDDER

Excel Construction Services, LLC (Seal)
Bidder's Name and Corporate Seal

By:

Signature

Print Name

Title

Attest:

Signature

Title

SURETY

Merchants Bonding Company (Mutual) (Seal)
Surety's Name and Corporate Seal

By:

Signature (Attach Power of Attorney)

Print Name

Attorney-In-Fact

Title

Attest:

Power of Attorney Attached

Signature

Title

Note: Addresses are to be used for giving any required notice.

Provide execution by any additional parties, such as joint venturers, if necessary.

MERCHANTS
BONDING COMPANYTM
POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa (herein collectively called the "Companies") do hereby make, constitute and appoint, individually, Barbara A Shamard; Chris Brandt; George S Sykes Jr; John S Burns Jr; Peter Pincoffs; Rob Bridges; Stacy L Flores; Todd Davis; William H Page Jr

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 6th day of March, 2020.

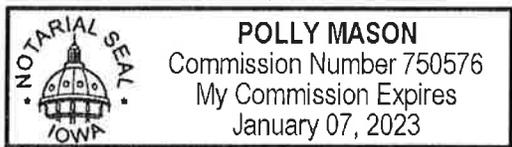


MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.

By *Larry Taylor*
President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 6th day of March, 2020, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.



Polly Mason
Notary Public

(Expiration of notary's commission does not invalidate this instrument)

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 21st day of May, 2020.



William Warner Jr.
Secretary



MERCHANTS BONDING COMPANY (MUTUAL) • MERCHANTS NATIONAL BONDING, INC.
P.O. BOX 14498 • DES MOINES, IOWA 50306-3498 • (800) 678-8171 • (515) 243-3854 FAX

Please send all notices of claim on this bond to:

Merchants Bonding Company (Mutual) / Merchants National Bonding, Inc.

P.O. Box 14498

Des Moines, Iowa 50306-3498

(515) 243-8171

(800) 678-8171

Physical Address: 6700 Westown Parkway, West Des Moines, Iowa 50266

City of Marble Falls
Water Treatment Plant Improvements Project
2020

CITY OF MARBLE FALLS
CONSTRUCTION CONTRACT

This Construction Contract (“Agreement”) is dated for reference this 16th day of June, 2020,

between the Owner:

City of Marble Falls
800 Third Street
Marble Falls, Texas 78654
Attn: Mike Hodge, City Manager

and the Contractor:

Excel Construction
1202 Leander Drive
Leander, Texas 78641
Attn: Randal Park, President

for the following Project:

Marble Falls Water Treatment Plant Improvements Project.

W I T N E S S E T H:

Article 1. Statement of Work. Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: Furnish and install all materials, permits, equipment, appurtenances, and incidentals to replace existing Clarifier No. 1 equipment and one (1) high service pump at the City’s Water Treatment Plant. The Project includes rehabilitating existing Clarifier No. 1 interior concrete basin walls and floor, removing and replacing influent clarifier line, installing galvanized steel stairs and perimeter walkway for existing Clarifier No. 1, and installing associated electrical components and instrumentation.

Such Work is described more in particular in the other Contract Documents incorporated in this Agreement.

Article 2. Contract Documents.

Enumeration of Contract Documents

City of Marble Falls
Water Treatment Plant Improvements Project
2020

The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

The Agreement is this executed Agreement for Construction Contract.

Owner's Solicitation Documents:

Bid Advertisement;
Instructions to Bidders;
Bid Form;
Payment, Performance and Bid bond forms.

Bidder's Bid Form and Owner required attachments thereto;

The General Conditions are City of Marble Falls General Conditions;

Special Conditions;

The Specifications: Project Manual: City of Marble Falls Water Treatment
Plant Improvements

The Drawings: The City of Marble Falls Water Treatment Plant Improvements

The Addenda, if any: Addendum No. 1
Addendum No. 2

The Contract Documents also include Bidder's warranties and representations and any documents submitted by Bidder related to qualifications and experience which are not inconsistent with the terms of this Agreement. All such Contract documents are incorporated herein for all purposes, and including the attachments as defined therein. In the event that there is a conflict between any contract document and this Agreement, this Agreement shall control. In the event that there is any conflict between the General Conditions and the Special or Supplementary Conditions or the respective Project Manuals, the Special or Supplementary Conditions and the Project Manuals shall Control.

Article 3. Contract Time. Time is of the essence for this Agreement. Contractor will commence the Work upon issuance of a Notice to Proceed and will complete the Work within the following calendar days thereafter ("Performance Deadline").

210 days to Substantial Completion

Contractor will finally complete the Work no later than 30 days after the Substantial Completion Date for the Project, unless a different time for Final Completion is specified by Architect in the Certificate of Substantial Completion.

Contractor shall not commence the Work until Contractor has provided Owner with (i) a Certificates of Insurance showing that the required insurance coverage is in place, (ii) the required

Payment and Performance Bonds, and (iii) Contractor's Safety Plan, and Owner has approved the insurance and bonds. Any approval process is for the benefit of Owner only, and does not relieve the Contractor from its obligation to comply with the requirements of the Contract Documents.

Article 4. Contract Amount. For performance of the Work, Owner will pay to Contractor the not to exceed lump sum of \$1,233,967 as provided in the Contract Documents.

The lump sum does not include any alternative bids.

Article 5. Payments. Owner will make payments, subject to Owners' right to withhold retainage, in accordance with the provisions set out in Contract Documents.

Article 6. Bonds and Insurance. Contractor is required to provide Payment and Performance Bonds and Insurance prior to commencing Work, in accordance with the requirements set out in the Contract Documents.

Article 7. Other Obligations. Contractor will comply with all requirements set forth in the Contract Documents.

Article 8. Liquidated Damages. Liquidated damages shall be payable in the amounts as set out in the Contract Documents. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by Owner, estimated at or before the time of executing this Agreement. When the Owner reasonably believes that the Performance Deadline will be inexcusably delayed, the Owner shall be entitled, but not required to, withhold from any amounts otherwise due the Contractor an amount then believed by the Owner to be adequate to recover liquidated damages applicable to such delays.

As provided in the Solicitation Documents, Contractor has a period of 5 days from the date Contractor was notified of the award of Contract to execute the Agreement, as well as provide the insurance, bonds, safety plan and other documents required by the Contract Documents. If Contractor fails to sign the Agreement, and/or to submit any of the required documentation within the 5 day time period, then Owner has the right to treat each day beyond the 5 day deadline in which the Agreement was unsigned, and/or one or more of the required documents had not been submitted, as a day of unexcused delay under the Agreement.

Article 9. Notice. All notices of default under the Contract Documents must be in writing and sent by certified mail, return receipt requested. Any mailed notice required or permitted to be given under the Contract Documents shall be deemed delivered four days after it is deposited in the U. S. Mail. All notices required by the Contract Documents that are not required to be sent by certified mail must be in writing and may be sent by mail, fax or email.

City of Marble Falls
Water Treatment Plant Improvements Project
2020

City of Marble Falls
800 Third Street
Marble Falls, Texas 78654
Attn: Mike Hodge, City Manager
Telephone: (830) 693-3615
Facsimile: (830) 693-6737

With copy to Engineer:
Trihydro Corporation
1005 E St. Elmo Rd, Bldg #7
Austin, Texas 78745
Attn: Steven Young
Telephone: (512) 442-3008
Facsimile: (512) 448-7811

Contractor:
Excel Construction
1202 Leander Drive
Leander, Texas 78641
Attn: Randal Park, President
Telephone: (512) 259-5005
Facsimile: (512) 259-5665

Notice given in any other manner will be deemed delivered if and when actually received. Either party may change its address for notice by providing notice to the other party as provided herein. Such change of address will be effective 14 days after it is delivered.

Article 10. Contractor shall comply with the prevailing wage rate requirements set forth in the Contract Documents and as required by law and will require subcontractors to comply with the applicable provisions of said law. Contractor and each subcontractor shall pay not less than the prevailing wage rates as set out in the Contract Documents.

Article 11. Pursuant to Section 406.096 of the Texas Labor Code, by execution of the Contract, Contractor certifies to Owner that it has Worker's Compensation Insurance coverage for each employee of the Contractor employed on this Project. Contractor shall obtain from each subcontractor a certificate which certifies that the subcontractor has Worker's Compensation insurance coverage for each employee of the subcontractor employed on this Project and shall promptly provide Owner with all such certificates.

Article 12. Severability

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

Article 13. Conflict of Interest

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

Article 14. Gift to a Public Servant

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

Article 15. Governing Law and Legal Construction

This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state. The parties to this Agreement agree and covenant that this Agreement shall be enforceable in Marble Falls, Texas; and that if legal action is necessary to enforce this Agreement, exclusive venue shall lie in the state district courts of Burnet County, Texas and the federal courts of Travis County, Texas.

Article 16. Independent Contractor

Contractor covenants and agrees that he/she is an independent contractor, and not an officer, agent, servant or employee of City; that Contractor shall have exclusive control of and exclusive right to control the details of the work performed hereunder, and all persons performing same, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and consultants,

and nothing herein shall be construed as creating a partnership or joint enterprise between City and Contractor.

Article 17. Disclosure

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

Article 18. Entire Agreement

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

Article 19. Non-Waiver

Any waiver of a right or remedy by City shall not be deemed a waiver of any other right or remedy of City. Any waiver of Contractor's default by City shall not be deemed a waiver of any other or future default.

Article 20. Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

Article 21. Equal Employment Opportunity

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

Article 22. Attorney Fees

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

Executed to be effective as of the date set forth above, which shall be filled in by Owner at the time it executes this Contract.

City of Marble Falls

By: _____

Mike Hodge, City Manager

ATTEST:

Secretary

CONTRACTOR

By: _____

Randal Park, President

June 16, 2020

7. REGULAR AGENDA

- (b) Discussion and Action on an amendment to the Professional Services Agreement with Trihydro for professional and engineering services related to water treatment plant improvements and authorize the City Manager to execute the amendment.
Kacey Paul, City Engineer
-



Council Agenda Item Cover Memo
June 16, 2020

Agenda Item No.: 7(b)
Presenter: Kacey Paul, P.E., City Engineer
Department: Engineering
Legal Review:

AGENDA CAPTION

Discussion and Action on an amendment to the Professional Services Agreement with Trihydro for professional and engineering services related to water treatment plant improvements and authorize the City Manager to execute the amendment.

BACKGROUND INFORMATION

This purpose of this item is to discuss and vote on the contract amendment with Trihydro for construction phase services for the water treatment plant clarifier repair and upgrade to the high service pump station. This is an adopted project in the Capital Improvement Plan 2019-2023, and bonds were sold to cover the project design and construction in Summer 2019. The total proposed construction budget for the project is \$1,300,000.

During construction, it is important to have the design engineers involved to some level so they can address any design related questions and review specific elements of the construction. This project has several key elements that need to be closely overseen, like the installation of the 30" feed line under the clarifier.

RECOMMENDATION

City staff recommends approval of the contract amendment for Construction Management with Trihydro Engineering in the amount of \$37,750 for the water treatment plant clarifier repair & high service pump station upgrade, to be executed by Mike Hodge, City Manager.

Memo Contents:

- Contract Amendment

Pages 2 - 5



June 5, 2020

Kacey Cubine Paul, P.E., CFM
City Engineer
City of Marble Falls
1808 Second Street
Marble Falls, Tx. 78654

RE: City of Marble Falls Water Treatment Plant Improvements Project
Additional Services – Construction Administration

Dear Ms. Paul:

Trihydro Corporation (Trihydro) is submitting an Additional Services request in accordance with the City of Marble Falls (City) Water Treatment Plant Improvements Projects (Project) Professional Services Agreement. The City has requested Trihydro provide construction phase administration and observation services for the referenced project. The as-directed services will assist the City in administering the Project's construction phase assuring construction plans and project manual compliance. The overall project construction duration is estimated at 7 months however, much of the work will be limited to approximately 3 months for construction improvements. Trihydro's proposed scope of services is based on supporting the Project through construction phase.

Trihydro proposes the following Scope of Services be performed at the City's direction throughout the Project's construction phase.

CONSTRUCTION PHASE SERVICES

- Develop agenda, conduct a pre-construction conference, and provide meeting minutes
- Review Contractor's project schedule and provide recommendation
- Review Contractor's schedule of values and provide recommendation
- Review and approve Contractor's project submittals
- Address request for information (RFI) submissions
- Perform part-time on-site Resident Project Representative (RPR) duties to verify contract documents adherence based on an active 3-month construction duration and one RPR for approximately 8 hours per week
- Schedule and conduct up to three on-site construction progress meetings at 2 hours per meeting
- Review and approve Contractor's payment applications



Ms. Kacey Cubine Paul, P.E., CFM

June 5, 2020

Page 2

- Review Substantial Completion progress, once for the clarifier renovation and once for the High Service Pumps installation
- Develop project punch list(s) for the Clarifier Renovation and High Service Pump installation
- Verify Clarifier Renovation and High Service Pump startup and equipment
- Issue City-approved project Substantial and Final Completion notices
- Perform contractual close-out procedures and required documents verification
- Prepare record drawings based on contractor provided red-line drawings and Trihydro site observations for City's records

ASSUMPTIONS

- 12 submittal reviews - total 20 hours
- RPR services - 8 hours per week for 9 weeks
- Perform on-site visits for each milestone event and at the City's direction
- Attend and conduct one pre-construction meeting and three progress meetings at City offices
- Perform one project walk-through to generate Punch list
- Contractor will provide red-lined, as-constructed plan markups for record drawing preparation

FEE ESTIMATE

Our fee estimate is based on the tasks outlined above at the standard hourly rates with associated personnel task hours. Our estimate to perform the services described in this letter is \$37,750.00. Invoices will be prepared on a time and material basis with a cost **not to exceed** the estimated amount without written authorization. The Scope of Services outlined above are for the City's consideration and may be modified through discussions to accommodate the City's project needs, budget considerations, and schedule requirements.



Ms. Kacey Cubine Paul, P.E., CFM
June 5, 2020
Page 3

Work will begin immediately upon letter approval and authorized signature. Should this proposal be acceptable, please sign and return as an acknowledgement to proceed with the proposed scope of work and fee. If you have questions, please do not hesitate to contact us at (512) 442-3008.

Sincerely,
Trihydro Corporation

Scott Swiderski, P.E., CCM
Senior Engineer

Mike Hodge
City Manager

999-68X-001

Date

Attachments

cc: James Kennedy – Public Works Director
Jay Everett – Assistant Public Works Director
Jeff Felps – Water Plant Superintendent

June 16, 2020

7. REGULAR AGENDA

- (c) Discussion and Action on 2nd Amendment to Memorandum of Understanding between the EDC, City of Marble Falls, and Phoenix Hospitality Group. *Christian Fletcher, Executive Director MFEDC*
-



Council Agenda Item Cover Memo
June 16, 2020

Agenda Item No.: 7(c)
Presenter: Christian Fletcher
Department: Marble Falls Economic Development Corporation
Legal Review: yes

AGENDA CAPTION

Discussion and Action on 2nd Amendment to Memorandum of Understanding between the EDC, City of Marble Falls, and Phoenix Hospitality Group.

BACKGROUND

On November 20, 2019, the EDC and City entered into a Memorandum of Understanding with Phoenix Hospitality Group (PHG) to conduct a feasibility analysis regarding their potential involvement in the Downtown Hotel and Conference Center project. At the end of the initial feasibility period in January 2020, we received a proposal from PHG that outlined their interest and suggested approach. The first amendment to the MOU was approved on February 19, 2020 and extended the time period for due diligence and for some conceptual architecture to be explored; this first amendment extended the MOU through May 31, 2020.

A conceptual architecture exercise was held with the EDC board and City Council in late February, but the onset of the global coronavirus pandemic delayed the delivery of the final conceptual package until late May. Now that the preliminary pricing set has been received, we would like to amend the MOU a second time to allow time for the submission of bids by the general contractor and subconsultants as well as the coordination of any value engineering that needs to take place. The second amendment to the MOU proposes to extend our agreement through August 31, 2020.

SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING

This Second Amendment to the Memorandum of Understanding dated November 20, 2019 (“MOU”) is made on the ____ day of June 2020 (“Effective Date”) by and between Phoenix Hospitality Group, LLC, a Texas limited liability company, its affiliates and assigns (collectively “Phoenix”), The City of Marble Falls, Texas (“City”) and Marble Falls Economic Development Corporation (“EDC”), each a “Party” and collectively referred to as the “Parties.”

Amendments

1. In Section IV. Terms & Other Conditions, paragraph 1, the original Term of January 31, 2020 that was extended to May 31, 2020 by the First Amendment to the MOU dated February 19, 2020, shall be further extended to August 31, 2020, and

2. In Section IV. Terms & Other Conditions, paragraph 3 remains as amended in the First Amendment to the MOU dated February 19, 2020 and is restated here:

“3. If the Parties determine that the Project is not feasible and/or will not be consummated and finalized, then each Party will absorb its respective costs incurred in performing its roles and responsibilities listed herein. However, should the Project be consummated then the EDC will be reimbursed by Phoenix for its actual pre-development expenditures that were mutually agreed to by all parties in writing in advance of their occurrence. The Parties hereby agree that the expenditures to be incurred by the EDC on the attached Schedule 1 are approved for reimbursement should the Project be consummated.”

EXECUTED to be effective as of the date above shown.

THE CITY OF MARBLE FALLS, TEXAS, a Home Rule Municipality located in Burnet County, Texas

By: _____
Title: _____
Date: _____

MARBLE FALLS ECONOMIC DEVELOPMENT CORPORATION, a Texas nonprofit corporation

By: _____
Steve Reitz, Board President
Date: _____

PHOENIX HOSPITALITY GROUP, LLC, a Texas limited liability company

By: CORCORAN GROUP INVESTMENTS, LLC, a Texas limited liability company

By: _____
John G. Corcoran, Managing Member
Date: _____

By: MCCLURE VENTURES, LLC, a Texas limited liability company

By: _____

Edward McClure, Managing Member

Date: _____

SCHEDULE 1

Planned Pre-Development expenditures to be incurred by the EDC to be reimbursed by Phoenix upon Project consummation per Section IV. Terms & Other Conditions, paragraph 3:

1. Architect Site Tour for Concept Package – Actual Cost \$5,152.49 (February 26-28, 2020)
2. Concept Package – Actual Cost \$29,771.67 (February 28 – March 18, 2020)
3. Preliminary Pricing Set – Cost Estimate \$45,000 (estimated to occur: March 19 – June 1, 2020)
4. Geotechnical Report – Cost Estimate \$10,000 (estimated to occur: June 1-30, 2020)

June 16, 2020

7. REGULAR AGENDA

- (d) Discussion and Action on a Professional Services Agreement between the City of Marble Falls and Doucet & Associates for design and engineering services for Phase 1b of the Parks Improvement Plan including the authorization for the City Manager to execute the Agreement. *Christian Fletcher, Executive Director MFEDC*
-



Council Agenda Item Cover Memo
June 16, 2020

Agenda Item No.: 7(d)
Presenter: Christian Fletcher
Department: Marble Falls Economic Development Corporation
Legal Review: yes

AGENDA CAPTION

Discussion and Action on a Professional Services Agreement between the City of Marble Falls and Doucet & Associates for design and engineering services for Phase 1b of the Parks Improvement Plan including the authorization for the City Manager to execute the Agreement.

BACKGROUND

Nine firms responded to the Request for Qualifications issued in February for design and engineering services related to Phase 1b of the Parks Improvement Plan. Phase 1b is comprised mostly of Lot 5, the EDC-owned waterfront tract just east of the Downtown Hotel & Conference Center site; proposed improvements include a boardwalk, a waterfall pavilion, and gardens, among other amenities.

The Statements of Qualifications were reviewed by a committee comprised of the following individuals:

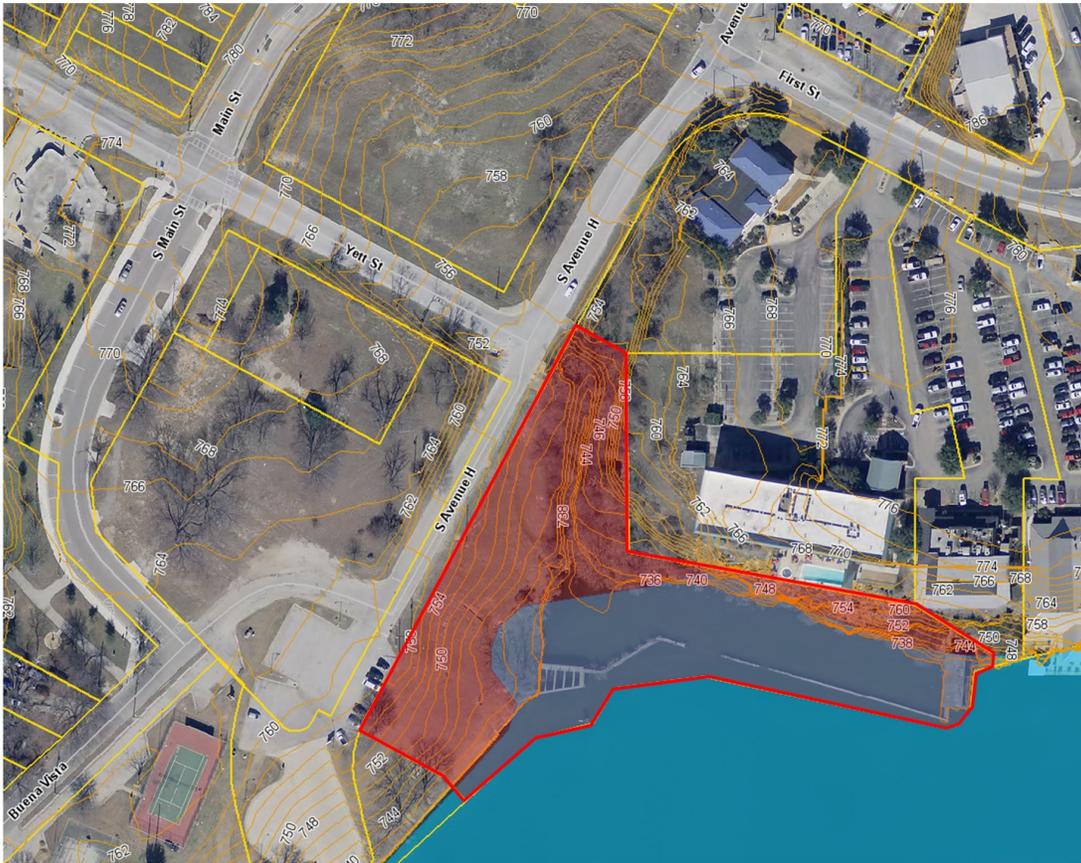
Caleb Kraenzel, Assistant City Manager
Kacey Paul, City Engineer
Lacey Dingman, Parks and Recreation Director
Christian Fletcher, Executive Director of the EDC
John Packer, Mayor and EDC Board Member
Steve Reitz, EDC Board President
Mark Mayfield, EDC Board Vice President

After the SOQ scores were tabulated, three firms were invited to do a virtual interview with the committee. Based on their team's experience with waterfront park projects and some recent experience in Marble Falls, Doucet & Associates was selected as the firm with which the committee would like to negotiate a contract.

Because the funds that the EDC has on hand for this project can only be used on EDC-owned property, the following professional services contract and fee proposal are limited

to Lot 5. Furthermore, because of the wide spectrum of variables for this project, Doucet & Associates has requested that we consider starting with right-fit verification and a portion of schematic design work, which would be roughly equivalent to 10% of the total contract scope and fees. The EDC will be covering the cost of this contract.

Design and engineering services related to adjacent improvements to Avenue H will need to be covered in a supplemental agreement.



PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made and entered into as of the ___ day of _____, 2020 by and between the City of Marble Falls ("City") and Doucet & Associates ("Consultant").

In consideration of the mutual premises, covenants and Agreements herein contained, the parties agree as follows:

Section 1. City hereby engages Consultant, and Consultant hereby accepts such engagement, to provide professional planning and engineering services to the City as specified in Attachment "A" (the "Services"). Consultant shall perform the Services for the benefit of the City upon the terms and conditions contained in this Agreement.

Section 2. Term and Termination.

(a) **Term.** The term of Consultant's engagement by City hereunder (the "Term") shall commence on the date of this Agreement and will continue in effect until completion of the Services, unless it is earlier terminated in accordance with this Section. The Services are anticipated to be performed by the Consultant within 8 weeks from notice to proceed from the City.

(b) **Termination.** This Agreement may be terminated prior to the end of the Term upon 10 days' notice by either party for any or no reason. Such termination shall be effective 10 days following delivery and receipt, by the terminating party to the other party, of written notice of such termination. The City shall pay Consultant for services rendered and obligations incurred to date of termination and Consultant shall submit to the City all Project documents prepared to that point.

Section 3. Services.

(a) **Scope of Services.** The Services shall include those items listed on Attachment A which is incorporated herein by reference for all purposes. In order for the Consultant to perform the Services, the City's obligation for providing information and support is also described in Attachment A. Attachment "A" describes all phases of the Services anticipated to be provided by the Consultant, including the work that will be given notice to proceed under the initial phase of services to be performed by Consultant, and the subsequent work that would be authorized by amendment to this contract.

(b) **Performance.** The Services, and other duties of Consultant hereunder shall be performed promptly upon request by City, and each phase or task to be performed by Consultant shall commence upon the receipt by Consultant of a written Notice to Proceed. The Consultant shall not undertake any work or portion of a task or phase prior to issuance by the City of a written Notice to Proceed for that task or phase of work. Consultant shall provide to the City, prior to commencing with the work, a task-by-task schedule of the Services to be performed, and will submit monthly updates to the schedule to the City to indicate progress on conducting the Services and adjustments to the work schedule. Engineer shall perform all services under this Agreement to the prevailing engineering professional standards consistent with the level of care and skill ordinarily exercised by members of the engineering profession, both public and private, currently practicing in the same locality under similar conditions, including reasonable, informed judgments and prompt, timely action.

(c) **Additional Services.** If Consultant determines that services outside the scope of Attachment "A" ("Additional Services") are required or recommended, or that Consultant is being asked by City to perform services not covered by Attachment "A", Consultant shall notify City that such services are Additional Services, and the cost associated with their performance and receive approval to perform such Additional Services prior to undertaking them. Additional Services shall be performed at the professional rates listed in Attachment "B", or for a lump sum amount as agreed between the parties.

(d) **Consultant Responsibility.** Acceptance and approval of the work performed by Consultant or acceptance and approval of any report, document, or computer program by the City shall not constitute nor be deemed a release of the responsibilities and liability of Consultant for the accuracy and competency of Consultant's work products, computer programs, or other documents, and services prepared/performed under this Agreement. No approvals or acceptances by or in behalf of the City shall be deemed to be an assumption of such responsibility by the City for any defect, error or omission in said work products, computer programs or other documents and services as prepared/performed by Consultant.

Consultant further agrees to correct documents or re-execute services as may be required when such documents or services required to be produced under this Agreement are found to be in error or contain defects or omissions at no additional costs to the City.

Section 4. Compensation.

(a) **Fee.** In exchange for Consultant ongoing performance of the initial phase of Services associated with Attachment "A" and the other duties and obligations under this Agreement, City shall pay to Consultant a fee (the "Fee") not to exceed \$43,500. The Fee shall be the sole compensation due Consultant in connection with its rendition of the Services identified in Attachment "A". Payments to Consultant will be made by City from invoices submitted by the Consultant and shall be based on the percentage of the work performed by Consultant on the Project as of the date of the invoice. Invoices shall itemize the services performed between Base Services, Additional Services and expenses, as applicable. Invoices shall not be submitted more frequently than one time per month. Invoices are due and payable thirty (30) days after receipt by the City.

The Fee is to be paid on a not to exceed basis, in accordance to the schedule of values included in Attachment "B", to include any and all expenses that may be incurred by Consultant in the performance of the Services associated with this Agreement. City shall not be obligated to reimburse Consultant for any additional expenses incurred by Consultant in connection with Consultant's performance of such Services except in accordance with Section 3c of this contract. Subsequent amendments to this Contract may be executed by the City to authorize additional fees for

the Consultant to provide the remainder of the Services in Attachment "A" that are not included in the initial Notice to Proceed, the schedule of value for which is shown in Attachment "C".

(b) Taxes. Consultant, and not City, shall be solely responsible for paying all required federal, state and local taxes related to any amounts received by Consultant pursuant to this Agreement. City shall not withhold OASDI, Medicare or any federal, state or local income or other tax, make unemployment insurance contributions or obtain workers' compensation insurance on behalf of Consultant.

(c) Payments on account of Consultant's Services shall be made to Consultant at its billing address indicated on the invoice, 30 days after invoice is received and approved for payment. Invoices for payment of Services shall not be submitted to City more frequently than once per month. Billing shall include documentation of cost of Services rendered during the previous month. Interest shall accrue on undisputed amounts which have not been and are past due, in accordance with the provisions of Section 2251.021 of the Texas Government Code, unless delay in payment is due to the fault of Consultant.

Section 5. Independent Contractor. Consultant shall at all times be an independent Consultant and nothing in this Agreement shall at any time be construed so as to create the relationship of employer and employee, principal and agent, partnership or joint venture as between Consultant and City. Consultant shall have the entire charge, control and supervision of its performance of the Services. Consultant will not have any authority to incur any obligation or bind or commit City to any Agreement, contract, or commitment or to waive, modify, or amend any rights of City under any Agreement, contract, or commitment, except as expressly authorized in writing by City. City shall not in any manner be answerable or accountable for: (i) any violation by Consultant of any federal, state or local laws, regulations, ordinances, rules or orders; or (ii) for any injury, loss or damage arising from or out of any act or omission of Consultant.

Section 6. Governing Law. This Agreement and the respective rights and obligations of the parties hereto shall be governed by and construed in accordance with the laws of the State of Texas, without regard to its conflicts of laws provisions. Venue and performance of this Agreement shall be in Burnet County Texas.

Section 7. Successors and Assigns. This Agreement and the terms, covenants, provisions and conditions hereof shall be binding upon, and shall inure to the benefit of, the respective heirs, successors and assigns of the parties hereto; provided, however, that Consultant may not subcontract or assign this Agreement without the prior approval of City.

Section 8. Severability and Waiver. If any provision of this Agreement is held to be invalid or unenforceable for any reason, such provision shall be conformed to prevailing law rather than voided, if possible, in order to achieve the intent of the parties and, in any event, the remaining provisions of this Agreement shall remain in full force and effect and shall be binding upon the parties hereto. No failure or delay by either the City or Consultant in enforcing any provision of this Agreement shall operate as a waiver.

Section 9. Limitation of Damages. UNDER NO CIRCUMSTANCES WILL CITY BE LIABLE TO CONSULTANT OR CONSULTANT BE LIABLE TO CITY FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES.

Consultant's liabilities for damages under this Agreement are limited to a maximum of \$500,000. Coverage set forth in the insurance requirement.

Section 10. Compliance with Law. Consultant agrees that it shall at all times fully comply with all laws, statutes, ordinances, rules, regulations and orders applicable to the Services or this Agreement.

Section 11 Insurance. Consultant agrees to carry and maintain insurance in the following types and amounts for the duration of this Agreement. Consultant shall require each sub-consultant or subcontractor to provide the insurance coverage described herein and to provide certificates of coverage in advance of performing any work.

(a) Workers' Compensation and Employers' Liability coverage for employees of Consultant, if any, with limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Art. 8308-1.01 *et seq.* Tex. Rev. Civ. Stat.) and minimum policy limits for Employers Liability of \$100,000 bodily injury per accident, \$500,000 bodily injury disease policy limit and \$100,000 per disease per employee.

(b) Commercial General Liability with a minimum combined bodily injury and property damages per occurrence with a limit of \$500,000 for coverages A & B. The policy shall contain the following provisions:

1. City listed as an additional insured, endorsement CG 2010 or its equivalent.
2. Thirty (30) day Notice of Cancellation in favor of the City, endorsement CG 0205 or its equivalent.
3. Waiver of Transfer of Rights of Recovery Against Others in favor of the City, endorsement CG 2404 or its equivalent.

(c) Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements in favor of City:

1. Waiver of Subrogation endorsement TE 2046A or its equivalent.
2. Thirty (30)-day Notice of Cancellation, endorsement TE 0202A or its equivalent.
3. Additional Insured, endorsement TE 9901B or its equivalent.

(d) Professional Liability – \$500,000.00 each claim and \$1,000,000.00 in the aggregate on an occurrence basis.

Section 12 Indemnity.

Consultant hereby expressly agrees to indemnify and hold harmless the City and the City's officers, agents and employees, from and against all expenses, claims, demands, costs, and causes of action, including reasonable attorney's fees for the defense of all claims and demands (collectively, "Costs"), to the extent directly caused by the negligent performance of Services in connection with this Agreement by Consultant, its officers, agents, employees and parties with whom it contracts, including Sub-Consultants, and from all Costs in connection with injury or property damages to the extent directly caused by the negligent performance of Services under this Agreement by Consultant, its employees, agents, representatives and parties with whom it contracts, including Sub-Consultants.

Section 13 Confidentiality.

Consultant covenants and agrees that it shall not, at any time, directly or indirectly, divulge or disclose for any purpose whatsoever, confidential and proprietary information concerning the City that has been developed by the City, or obtained by Consultant from the City or disclosed to the Consultant by the City, as a result of the performance of the Consultant's work, duties and obligations under this Agreement. The parties stipulate that, as between them, the aforementioned matters are important, material, and confidential and gravely affect the effective and successful conduct of the business of the City and its goodwill, and that any breach of the terms of this section is a material breach of this Agreement. The parties further stipulate that no adequate remedy at law exists for a violation of this Section by Consultant and that therefore the City shall be entitled to injunctive relief against Consultant for such a violation. "Confidential and proprietary information" of the City shall include, but not be limited to, costs and pricing financial and technical information, ideas, designs, specifications, techniques, models, data, programs, documentation, processes, know-how, customer lists, marketing plans, and information discussed at any meetings in which the City is present. "Confidential Information" shall also include any individually identifiable information of Participants.

It is agreed that the provisions of this Section 13 shall be applicable and enforceable unless the terms and conditions of this Section 13 are expressly waived on behalf of the City and reduced to an instrument in writing signed by the City.

Section 14. Ownership and Use of Documents

Consultant agrees that items such as plans, drawings, photos, designs, studies, specifications, data, computer programs, schedules, technical reports, or other work products which is/are specified to be delivered under this Agreement, and which is/are to be paid for by the City, is/are subject to the rights of the City in effect on the date of execution of this Agreement. Subject to the last sentence in this section, these rights include the right to use, duplicate and disclose such items, in whole or in part, in any manner and for whatever purpose; and, to have others do so. If an item produced by Consultant is copyrightable, Consultant may copyright it, subject to the rights of the City. The City reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, modify and use such items and to authorize others to do so. Any reuse or modification of any item by the City shall be at the City's sole risk and without liability or legal exposure to Consultant. Consultant shall mark all confidential or proprietary information as such prior to furnishing it to the City. Notwithstanding anything to the contrary contained herein, the City agrees that all rights and licenses afforded to the City in this section are limited to the use by the City exclusively for the City and not commercially or with an intent to profit from such information, and the City agrees to keep such information confidential from all parties not directly involved in the permitted use of such information unless required to release the information pursuant to the Texas Public Information Act, Chapter 552, Texas Government Code.

Section 15. Notice

Invoices and working documents may be hand delivered or sent by regular first-class United States mail. Working documents, progress reports, computer documents, computer files, or computer software may be sent through electronic mail (e-mail). Except for the information and/or documents specified above, any notice required to be given pursuant to this Agreement shall be in writing and shall be either delivered personally to the party to be notified, or sent by registered or certified mail, first class postage prepaid, return receipt requested, addressed to the party to be notified at such party's address:

Consultant:

Doucet & Associates
74018 Highway 71 West, Suite 160
Austin, Texas 78735
Attn: Tom Curan, PE, Senior Project Engineer

Marble Falls:

City of Marble Falls, Texas
800 Third Street
Marble Falls, Texas 78654
Attn: Mike Hodge, City Manager

Section 16. Entire Agreement. This Agreement embodies the entire Agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous Agreements and understandings, oral or written, relating to said subject matter. This Agreement may not be amended or modified in any manner except by a written Agreement signed by each of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the day and year first above written.

CITY OF MARBLE FALLS:

By: _____
Mike Hodge, P.E., City Manager

CONSULTANT:

By: _____
Tom Curan, P.E., Senior Project Engineer



**City of Marble Falls, Texas
Council Agenda Item Cover Memo
June 16, 2020**

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

AGENDA CAPTION

EXECUTIVE SESSION

CLOSE OPEN SESSION AND CONVENE EXECUTIVE SESSION Pursuant to §551.074 (*Deliberation Regarding the Appointment, Employment, Employment Evaluation, Reassignment, Duties, discipline or Dismissal of a Public Officer or Employee or to Hear a Complaint or Charge Against an Officer or Employee*) of the Open Meetings Act. *Tex. Gov't Code*, Council will meet in Executive Session to discuss the following:

- City Manager Mike Hodge Annual Evaluation

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.

City Attorney