



**NOTICE OF MEETING**  
**GOVERNING BODY OF MARBLE FALLS, TEXAS**  
**Tuesday, July 7, 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 7<sup>th</sup> day of July 2020 the Marble Falls City Council will meet in regular session at 6:00 pm at the Lakeside Pavilion located at 307 Buena Vista, Marble Falls, Texas, at which time the following subjects will be discussed:

1. **CALL TO ORDER AND ANNOUNCE QUORUM IS PRESENT**
2. **INVOCATION**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES AND TO THE TEXAS FLAG.**  
*"Honor the Texas Flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."*
4. **UPDATES, PRESENTATIONS, PROCLAMATIONS AND RECOGNITIONS**
  - Presentation of Certificate of Recognition from the Texas Police Chief's Associates Foundation. *Chief Bruce Mills, Retired*
  - Update from the Marble Falls/Lake LBJ Chamber of Commerce. *Jarrod Metzgar, Executive Director*
  - Update from the Marble Falls/Lake LBJ Convention and Visitors Bureau. *Erika Sopol, Digital and Social Media Coordinador*
  - Update from the Marble Falls Economic Development Corporation. *Christian Fletcher, Executive Director*
  - Update from the Marble Falls Municipal Court. *Melissa Johnson, Court Clerk*
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 16, 2020 regular meeting. *Christina McDonald, City Secretary*
- (b) Approval of the cancellation of the July 21, 2020 regular City Council Meeting. *Christina McDonald, City Secretary*
- (c) Approval of a Contract for Election Services with the Burnet County Elections Administrator for elections to be held August 2020 through July 2021. *Christina McDonald, City Secretary*
- (d) Approval of a Joint Election Agreement with Burnet County for the conduct of elections to be held August 2020 through July 2021. *Christina McDonald, City Secretary*
- (e) Approval of a Resolution 2020-R-07A supporting inclusion into the Texas Countywide Polling Program. *Christina McDonald, City Secretary*
- (f) Approval of the recommendation from the Hotel Motel Tax Advisory Committee regarding the allocation of FY 2019/2020 Hotel Occupancy Tax funding for the Marble Falls Music Festival. *Mike Hodge, City Manager*
- (g) Approval of the Western Region Radio System annual budget for Fiscal Year 2020-2021. *Mark Whitacre, Chief of Police*
- (h) Approval of a Professional Services Agreement with Langford Community Management Services, Inc. for grant management services associated with the NRCS EWP Grant. *Kacey Paul, City Engineer*

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

- (a) Public Hearing, Discussion and First Reading of Ordinance 2020-O-07A creating a construction work zone for traffic and temporarily reducing the speed limit on US Highway 281 in the City of Marble Falls. *Kacey Paul, City Engineer*
- (b) Discussion and Action on Contract Amendment No 1 for the EWP Contract with Miller Gray to include required cultural resource investigation for NHPA approval. *Kacey Paul, City Engineer*
- (c) Discussion and Action on Contract Amendment No 2 for the EWP Contract with Miller Gray to include engineering, environmental, and geotechnical analysis on alternate sites 1, 3, and 4. *Kacey Paul, City Engineer*

- (d) Discussion and Action on Ordinance 2020-O-03D regarding zoning text amendments to City of Marble Falls Code of Ordinances, Chapter 20, Signs, Section 20-3, Definitions, and Section 20-10, Temporary Signs; and Appendix B, Development Code, Article 3, Land Use, Article 4, General Development Regulations; Article 6, Subdivision Design and Land Development; Article 8, Parking, Loading, Stacking, and Lighting; Article 9, Trees, Landscaping, and Buffering; and Article 14, Definitions and Interpretations. *Valerie Kreger, Director of Development Services*
- (e) Discussion regarding potential permitting of long term stays in recreational vehicle parks. *Valerie Kreger, Director of Development Services*
- (f) Discussion and Action regarding the development of regulations pertaining to Short Term Rentals within the City of Marble Falls. *Caleb Kraenzel, Assistant City Manager*

**8. CITY MANAGER’S REPORT**

**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 Roper Public Improvement District

**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 2<sup>nd</sup> day of July, 2020 at 10:30 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

**July 7, 2020**

**6. CONSENT AGENDA**

(a) Approval of the minutes of the June 16, 2020 regular meeting. *Christina McDonald, City Secretary*

---

**STATE OF TEXAS  
COUNTY OF BURNET  
CITY OF MARBLE FALLS**

On this the 16<sup>th</sup> 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.

**PRESENT:** John Packer Mayor  
Richard Westerman Mayor Pro-Tem  
Craig Magerkurth Councilmember  
Celia Merrill Councilmember  
Reed Norman Councilmember  
Rene Rosales Councilmember  
Dave Rhodes Councilmember

**ABSENT:** None

**STAFF:** 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  
Kacey Paul City Engineer  
James Kennedy Director of Public Works  
Jay Everett Assistant Director of Public Works  
Chad Smith Street Department Superintendent  
Jeff Felps Water Plant Superintendent  
Ivan Graff Wastewater Plant Superintendent  
Dewaine Everett Water/Wastewater Superintendent  
Russell Sander Fire Chief  
Tommy Crane Fire Marshal  
Lacey Dingman Director of Parks and Recreation  
Scott Bush Parks and Recreation Superintendent  
Monique Breaux Recreation Coordinator  
Tony Kelley Parks Department Crew Leader  
Gary Alexander Street Department Crew Leader

**VISITORS:** Alex Copeland (Daily Trib), Scott Swiderski (Trihydro), Steve Reitz (EDC), Susan Patten (LCRA), Ed, McClure, Lisa McClure, Ian McClure and Brittney McClure (Phoenix Hospitality Group), Tom Curran P.E. (Doucet & Associates), Christina Bush

1. **CALL TO ORDER AND ANNOUNCE QUORUM IS PRESENT.** Mayor Packer called the meeting to order at 6:03 pm 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**
  - **Update from the Parks and Recreation Department.** Lacey Dingman, Director of Parks and Recreation gave the update.
  - **Update from the Public Works Department.** James Kennedy, Director of Public Works provided the update.
5. **CITIZEN COMMENTS.** There were no citizen comments.
6. **CONSENT AGENDA.**

(a) Approval of the minutes of the June 2, 2020 regular meeting.

(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.

Councilmember Merrill made a motion to approve the consent agenda. Mayor Pro-Tem Westerman seconded the motion. The motion carried by a unanimous vote (7-0).

7. **REGULAR AGENDA.**
  - (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 addressed Council. Councilmember Rhodes made a motion to award the Construction Contract to Excel Construction Services in the amount of \$1,233,967 and authorize the City Manager to execute the contract. Councilmember Merrill seconded the motion. The motion carried by a vote of 7-0.
  - (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 addressed Council. Councilmember Rhodes made a motion to approve the amendment to the Professional Services Agreement with Trihydro and authorize the City Manager to execute the contract.

Councilmember Rosales seconded the motion. The motion carried by a unanimous vote (7-0).

**(c) Discussion and Action on 2<sup>nd</sup> Amendment to Memorandum of Understanding between the EDC, City of Marble Falls, and Phoenix Hospitality Group.** City Manager Mike Hodge presented the agenda item. Representatives from Phoenix Hospitality Group were present and addressed Council. Councilmember Norman made a motion to approve the second amendment to the Memorandum of Understanding between the EDC, City of Marble Falls and Phoenix Hospitality Group. Mayor Pro-Tem Westerman seconded the motion. The motion carried by a vote of 7 -0.

**(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.** City Manager Mike Hodge addressed Council. Councilmember Rhodes moved to approve the Professional Services Agreement with Doucet & Associates as presented. Mayor Pro-Tem Westerman seconded the motion. The motion carried by a unanimous vote (7-0).

**8. CITY MANAGER'S REPORT.** City Manager Mike Hodge provided an update on the Marble Falls Peaceful Protest which was held in Johnson Park on June 13.

**7:20 pm Council convened to Executive Session**

**7:58 pm Council returned to Open Session**

**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.** Items scheduled for the July 7 regular meeting were presented.

**12. ADJOURNMENT.** There being no further business to discuss, the meeting was adjourned at 7:59 pm.

---

**John Packer, Mayor**

**ATTEST:**

---

**Christina McDonald, TRMC  
City Secretary**

**DRAFT**

**July 7, 2020**

**6. CONSENT AGENDA**

(b) Approval of the cancellation of the July 21, 2020 regular City Council Meeting.  
*Christina McDonald, City Secretary*

---



**Council Agenda Item Cover Memo**  
**July 7, 2020**

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

**AGENDA CAPTION**

Approval of the cancellation of the July 21, 2020 regular City Council Meeting.

**BACKGROUND INFORMATION**

The City Charter requires that Council hold two regular meetings each month.

Staff is requesting that Council take action to cancel the second meeting in July as there will be a budget workshop on July 28.

At the present time, staff does not have any items scheduled for the July 21 Council Meeting.

**July 7, 2020**

**6. CONSENT AGENDA**

(c) Approval of a Contract for Election Services with the Burnet County Elections Administrator for elections to be held August 2020 through July 2021. *Christina McDonald, City Secretary*

---



**Council Agenda Item Cover Memo**  
**July 7, 2020**

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

**AGENDA CAPTION**

Approval of a Contract for Election Services with the Burnet County Elections Administrator for elections to be held August 2020 through July 2021.

**BACKGROUND INFORMATION**

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

The contract is for the period of August 2020 through July 2021 and allows the Burnet County Elections Administrator to conduct the May 2021 General Election and any special elections called during that time period.

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

## CONTRACT FOR ELECTION SERVICES

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

### RECITALS

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

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

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

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

### I. GENERAL PROVISIONS.

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

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

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

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

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

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

1. The Contracting Officer shall notify each presiding and alternate judge of his or her appointment. The notification will also include the assigned polling location, the date of the election training(s), the date and time of the election, the rate of compensation, the number of clerks the judge may appoint, the eligibility requirements for election workers, and the name of the presiding or alternate judge as appropriate.
2. The election judge will make the clerk appointments in consultation with the Contracting Officer. If a presiding judge or the alternate judge does not speak both English and Spanish, and the election precinct is one subject to Sections 272.002 and 272.009 of the Texas Election Code, the Contracting Officer shall ensure that a bilingual election clerk is appointed. The Contracting Officer shall notify the clerks of the same information that the judges receive under this section.

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

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

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

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

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

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

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

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

1. The Contracting Officer shall supervise and conduct early voting by mail and by personal appearance and shall secure personnel to serve as Early Voting Deputies.
2. Early Voting by personal appearance for the election shall be conducted during the hours and time period and at the locations as determined by the Contracting Officer.
3. The Contracting Officer shall receive mail ballot applications on behalf of the LPS. All applications for mail ballots shall be processed in accordance with Title 7 of the Texas Election Code by the Contracting Officer or deputies at the Elections Office, located at 106 W. Washington St., Burnet, TX. Applications for mail ballots erroneously sent to the LPS shall be faxed promptly to the Contracting Officer for timely processing then the original application shall be forwarded to the Contracting Officer for proper retention.
4. Early voting ballots shall be secured and maintained at the Elections Office, located at 106 W. Washington St., Burnet, TX and in accordance with Chapter 87 of the Texas Election Code. The Early Voting Ballot Board shall meet at the same location unless posted differently.

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

**M. Election Day Activities.**

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

election workers.

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

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

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

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

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

**R. *Recount.***

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **V. PAYMENT**

**A. Charges and Distribution of Costs.** In consideration of the joint election services provided by the Contracting Officer, the LPS will be charged a share of election costs and an administrative fee. The costs distribution is set forth in the Joint Election Agreement. A cost estimate shall be provided upon request only after all entities participating in the election are identified.

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

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

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

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

**VI. TERM AND TERMINATION**

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

**VII. MISCELLANEOUS PROVISIONS**

- A. *Nontransferable Functions.*** In accordance with Section 31.096 of the Texas Election Code, nothing in this Contract shall authorize or permit a change in:

  - 1. The authority with whom or the place at which any document or record relating to the election is to be filed;
  - 2. The officers who conduct the official canvass of the election returns;
  - 3. The authority to serve as custodian of voted ballots or other election records; or
  - 4. Any other nontransferable function specified under Section 31.096 or other provisions of Texas law.
- B. *Cancellation of Election.*** If the LPS cancels its election pursuant to Section 2.053 of the Texas Election Code, the Contracting Officer shall be entitled to receive an administrative fee of \$75. The Contracting Officer shall submit an invoice for the administrative fee as soon as reasonably possible after the cancellation, and the LPS shall make payment therefore in a manner similar to that set forth in **V. PAYMENT** above.
- C. *Contract Copies to Treasurer and Auditor.*** In accordance with Section 31.099 of the Texas Election Code, the Contracting Officer agrees to file copies of this Contract with the County Treasurer and the County Auditor of Burnet County, Texas.
- D. *Election to Resolve a Tie.*** In the event that an election is necessary to resolve a tie vote, the terms of this Contract shall extend to the second election, except:

  - 1. The LPS and the Contracting Officer will agree upon the date of the election and the early voting schedule subject to provisions of the Election Code and with regard to other elections conducted by the Contracting Officer.
  - 2. The LPS will be responsible for any Department of Justice preclearance submission under Section 5 of the Federal Voting Rights Act.

3. An attempt will be made to use election workers that worked in the first election; those poll workers will not have additional training provided by the Contracting Officer.
4. The cost of the election will be borne by the LPS; the Contracting Officer will work with the LPS on cost management.

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

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

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

For the Contracting Officer:

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

For the LPS:

---



---



---



---



---



---



---

\* \* \*

WITNESS BY MY HAND THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

CONTRACTING OFFICER:

\_\_\_\_\_  
Doug Ferguson, Elections Administrator  
Burnet County, Texas

WITNESS BY MY HAND THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

THE LOCAL POLITICAL SUBDIVISION:

Name of Entity: \_\_\_\_\_

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

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

Official Capacity: \_\_\_\_\_

ATTEST: \_\_\_\_\_

**July 7, 2020**

**6. CONSENT AGENDA**

- (d) Approval of a Joint Election Agreement with Burnet County for the conduct of elections to be held August 2020 through July 2021. *Christina McDonald, City Secretary*
-



**Council Agenda Item Cover Memo**  
**July 7, 2020**

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

**AGENDA CAPTION**

Approval of a Joint Election Agreement with Burnet County for the conduct of elections to be held August 2020 through July 2021.

**BACKGROUND INFORMATION**

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

The agreement is for the period of August 2020 through July 2021.

The agreement outlines the appointment of election officers, early voting locations and hours, Election Day polling locations and hours and cost sharing amongst the Burnet County Local Political Subdivisions.

## JOINT ELECTION AGREEMENT 2020-2021

### FOR BURNET COUNTY LOCAL POLITICAL SUBDIVISIONS

**Whereas**, the undersigned local political subdivisions, collectively referred to hereafter as the “LPSs”, each anticipate holding election(s) from August 2020 to July 2021; and

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

**Whereas**, the County has contracted or is contracting with each LPS to conduct and provide election services for such LPS’s election(s) from August 2020 to July 2021; and

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

**NOW THEREFORE**, the LPSs agree as follows:

- I. **Scope of Joint Election Agreement.** The LPSs enter this Joint Election Agreement (“Agreement”) for the conduct of the elections to be held from August 2020 through July 2021.
- II. **Appoint Election Officer.** The LPSs appoint the Burnet County Elections Administrator to serve as the Election Officer for each LPS in order to perform and supervise the duties and responsibilities of the Election Officer for any election from August 2020 through July 2021.
- III. **Early Voting Polling Locations.** The Early Voting locations for the elections will be at the main Burnet Courthouse, 220 S. Pierce, Burnet, TX 78611 and the Courthouse South Annex in Marble Falls, 810 Steve Hawkins Pkwy., Marble Falls, TX 78654. The costs incurred in connection with the Burnet Courthouse Early Voting location will be shared only by the Burnet Consolidated Independent School District, the City of Burnet, the City of Bertram, the Central Texas Groundwater Conservation District (CTGCD) and Burnet County. The costs incurred in connection with the Courthouse South Annex Early Voting location will be shared only by the Marble Falls Independent School District, the City of Marble Falls, the City of Granite Shoals, the City of Cottonwood Shores, the City of Meadowlakes, the City of Highland Haven, the City of Horseshoe Bay, the City of Double Horn, CTGCD and Burnet County.
- IV. **Election Day Polling Locations.** Election Day voting shall be held in common precincts where appropriate at the dates, times, and locations recommended by the Election Officer and authorized and ordered by the governing body of each LPS. Those will be decided within one week after the last day to order an election.
- V. **Cost Sharing.** The LPSs agree to the cost sharing provisions below. This includes Burnet County, the school districts of the county, the cities of the county, and the Central Texas Groundwater Conservation District. Other entities pay a lump sum of \$1,000 for their election.
- VI. **Effective Date.** This Agreement becomes effective upon execution by the participating LPSs.
- VII. **Amendments.** This Agreement may not be amended or modified except in writing and executed by each LPS.

### **COST SHARING – NOVEMBER UNIFORM ELECTION DATE**

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

### **COST SHARING – MAY UNIFORM ELECTION DATE**

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

A cost estimate for the LPS election will be submitted upon request.

**APPROVED BY THE GOVERNING BODY OF** \_\_\_\_\_ in its meeting held the  
\_\_\_\_\_ day of \_\_\_\_\_, 202\_, and executed by its authorized representative.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ACKNOWLEDGED BY:**

\_\_\_\_\_  
Doug Ferguson  
Elections Administrator, Burnet County, Texas

\_\_\_\_\_  
Date

**July 7, 2020**

**6. CONSENT AGENDA**

(e) Approval of a Resolution 2020-R-07A supporting inclusion into the Texas Countywide Polling Program. *Christina McDonald, City Secretary*

---



**Council Agenda Item Cover Memo**  
**July 7, 2020**

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

**AGENDA CAPTION**

Approval of a Resolution 2020-R-07A supporting inclusion into the Texas Countywide Polling Program.

**BACKGROUND INFORMATION**

The Burnet County Commissioner’s Court has voted in favor of Burnet County applying to the Secretary of State for the use of county wide polling locations. If you are not familiar with this term, it is similar to early voting where you can go to any early voting location in the county to vote, no matter which voting precinct you reside in, except it extends to election day. On election day, any Burnet County voter could go vote at any polling location with the County Wide Polling Location Program, often referred to as Vote Centers.

Often there are voters who live close to a precinct border who’s actual precinct voting location is miles away, but they can see the neighboring precinct polling location from their home and wish they could vote there for convenience. With the county wide polling location program, they could vote there or anywhere that is closest to them.

There are voters in every election that go to the wrong polling place to try to vote at the last minute and are told they are at the wrong location and must vote provisional (which would not count in this scenario) since they wouldn’t have time to get to their precinct polling location. The same applies to someone who works out of the county and might be trying to get back in time to vote on election day. This program would allow the voter to vote at the closest location.

The Commissioner’s Court decided that the county should start by keeping all 20 of the existing county voting precinct locations open as part of the program in all general and primary elections. The County will still participate in the program with only the locations that are necessary to be opened for May uniform elections. This would keep people from being forced to vote at a different location than they are used to, keep confusion down and still achieve the same benefits mentioned above.

Being able to use an electronic pollbook that is communicating back to a central server to broadcast to each location who has voted somewhere in the county is the biggest hurdle that many rural counties have trouble with. The Burnet County Elections Administrator's Office has been out around the county, testing connectivity at many of the more remote polling locations (that don't already have WIFI at the location) with special equipment that can boost cell signals, and are happy to report that each location they have visited has given them positive results. They will be installing booster devices at any site that needs them. This is a top priority to qualify for the program. The Burnet County Elections Administrator is confident they are going to be able to do this at each location.

The Burnet County Elections Administrator's Office is working to schedule a public hearing with the Burnet County Commissioners Court to receive comments for or against the program and to answer any questions. No date has been set at this time.

The attached resolution shows support from the City of Marble Falls for the program.

**RESOLUTION 2020-R-07A**

**A RESOLUTION OF THE CITY OF MARBLE FALLS, TEXAS,  
SUPPORTING INCLUSION INTO THE TEXAS COUNTYWIDE  
POLLING PLACE PROGRAM**

**WHEREAS**, Pursuant to Election Code §543.007 et. seq., Texas counties may submit an application to the Texas Secretary of State to participate in a program to use countywide polling places for elections as an alternative to having a polling place located in each county election precinct;

**WHEREAS**, the Burnet County Commissioners Court and the Burnet County Elections Administrator held a public meeting on April 23, 2019, to seek citizen comments regarding the County's participation in the program;

**WHEREAS**, the Burnet County Commissioners Court voted in favor of using all existing 20 Burnet County polling locations;

**WHEREAS**, Countywide Polling will offer much more flexibility to voters and could reduce the number of provisional ballots cast;

**WHEREAS**, the City Council finds it to be in the best interest of the citizens of Burnet County to apply for inclusion in the countywide polling place program of the Secretary of State;

**NOW THEREFORE BE IT RESOLVED AND ORDERED:**

**THAT** the City of Marble Falls supports the Application for Participation in the Secretary of State's Countywide Polling Place Program as provided in Election Code §543.007 et. seq.

**PASSED AND ADOPTED** this 7<sup>th</sup> day of July, 2020.

**ATTEST:**

**THE CITY OF MARBLE FALLS**

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

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

**July 7, 2020**

**6. CONSENT AGENDA**

- (f) Approval of the recommendation from the Hotel Motel Tax Advisory Committee regarding the allocation of FY 2019/2020 Hotel Occupancy Tax funding for the Marble Falls Music Festival. *Mike Hodge, City Manager*
-



**Council Agenda Item Cover Memo**  
**July 7, 2020**

**Agenda Item: 6(f)**  
**Presenter: Mike Hodge**  
**Department: Administration**

**AGENDA CAPTION**

Approval of the recommendation from the Hotel Motel Tax Advisory Committee regarding the allocation of FY 2019/2020 Hotel Occupancy Tax funding for the Marble Falls Music Festival

**BACKGROUND**

The Hotel Occupancy Tax Advisory Committee convened on June 18, 2020 and heard presentations from applicants requesting funding from the FY19/20 hotel motel occupancy tax budget.

The committee has recommended funding in the amount of \$12,000 for the Marble Falls Music Festival to be hosted by the Marble Falls/Lake LBJ Chamber of Commerce. This item will be funded by the local assistance allocation.

Attached please find the application for funding.

## HOT Reimbursement Grant Application

Please print clearly and complete the following application.

### Organization

Today's Date: 3/8/2020  
Name of Organization: Marble Falls/Lake LBJ Chamber of Commerce  
Mailing Address: 916 Second St.  
City, State, Zip: Marble Falls, TX 78654  
Contact Name: Jarrold Metzgar  
Contact Phone Number: 830-693-2815  
Contact E-mail: jarrod@marblefalls.org  
Is your organization: Non-profit Private/For-Profit Tax ID# 74-1335720

Purpose of your organization:

The Chamber is purchased to advance the general welfare and prosperity of the Marble Falls/Lake LBJ area. All necessary means of promotion shall be provided and particular attention shall be given to economic, civic, commercial, industrial, educational and tourism interests of the area.

### Proposal Information

Does your Event/Expenditure pass **Part One** of the statutory test, defined specifically as directly enhancing and promoting tourism in Marble Falls **AND** directly promoting the overnight accommodation industry in Marble Falls by increasing overnight stays?  Yes  No

Does your Event/Expenditure pass **Part Two** of the statutory test, defined specifically as limiting the use of Hotel Occupancy Tax funds to one or more of the following categories?

(1) Funding the establishment, improvement, or maintenance of a convention center or visitor information center; (2) Paying the administrative costs for facilitating convention registration; (3) Paying for advertising, solicitations, and promotion that attract tourists and convention delegates to the city or its vicinity; (4) Expenditures that promote the arts; (5) Funding historical restoration or preservation programs; (6) Certain sporting event related expenses; (7) Certain tourist shuttles; (9) signage directing tourists to attractions frequently visited by hotel guests.  Yes  No

**If the answer to one of the above two questions is no, you are not eligible for Hotel Occupancy Tax (HOT) funds and need not continue.**

**Event or Expenditure Description**

- 1) Name of your event/expenditure: Marble Falls Music Festival
- 2) Website address of your event/expenditure: marblefalls.org
- 3) Date (s) of event/expenditure: September 18-19, 2020
- 4) Will there be an admission charge for this event/expenditure?  Yes  No
- 5) Please list any additional charges for this event/expenditure (i.e. parking, entry fees for contests, etc...)  
Activity N/A Cost \_\_\_\_\_  
Activity \_\_\_\_\_ Cost \_\_\_\_\_  
Activity \_\_\_\_\_ Cost \_\_\_\_\_
- 6) Primary location of event/expenditure: Johnson Park
- 7) What is specifically being marketed or promoted (i.e. facility, event, etc...)  
Marble Falls Music Festival  
\_\_\_\_\_  
\_\_\_\_\_
- 8) Purpose and goal of your organization and who benefits from your success:  
Marble Falls Music Festival will showcase Texas Country Artist throughout the day providing entertainment for our community and surrounding areas as we attract visitors to our city.  
\_\_\_\_\_  
\_\_\_\_\_

**Visitor Impact**

- 1) Previous year's number of persons expected attending this event/expenditure:  
Local: \_\_\_\_\_ Out of Town: \_\_\_\_\_
- 2) Number of total persons expected to attend this event/expenditure:  
Local: \_\_\_\_\_ Out of Town: \_\_\_\_\_
- 3) Approximately number of people attending/visiting event or expenditure will stay overnight in Marble Falls' hotels, motels or bed and breakfasts? 300
- 4) Do you reserve a room block for this event/expenditure? Yes  No
- 5) Which hotels have you negotiated a special rate if this reimbursement request is being used for an event? Please list hotels (do not list rates).  
The Chamber and CVB have an agreement from two of the local hotels to offer a special rate for our events. All hotels give a special rate for room blocks.  
\_\_\_\_\_  
\_\_\_\_\_

**Funding Request**

---

Amount Requested: \$ 12,000.00

Does the proposed event plan to become self-supporting in the future? **Yes** No

Total advertising/promotion budget: \$ 9,000.00

a) What is your organization's direct contribution to the above? \$ 9,000.00

b) What other sources of funding are being applied for or have been received for the advertising/promotion of your organization?  
None

c) How will the funds be used?  
Funds will be used for advertising, sound/stage production, featured artists and other talent fees deemed necessary.

d) Please indicate all promotion efforts your organization is coordinating and the amount financially committed to each media outlet:

Paid Advertising \$ 7,500.00 Radio \$ 1,000.00 Newspaper \$ 500.00

Press Releases to Media \$ \_\_\_\_\_ Television \$ \_\_\_\_\_

Direct Mailing \$ \_\_\_\_\_ Distribution of Brochures \$ \_\_\_\_\_

Other (describe) \$ N/A

**Required Attachments**

---

Along with the application, please submit the following attachments:

1. Itemized, detailed list of expenditures relevant for HOT revenue use
2. Advertising/ Marketing Plan, including targeted audience, detailed list of media to be used
3. List of Board of Directors/ Event Committee with contact phone numbers
4. Event planning timeline
5. Schedule of activities relating to your event/ expenditure

**July 7, 2020**

**6. CONSENT AGENDA**

(g) Approval of the Western Region Radio System annual budget for Fiscal Year 2020-2021. *Mark Whitacre, Chief of Police*

---



**Council Agenda Item Cover Memo**  
**July 7, 2020**

**Agenda Item:** 6(g)  
**Presenter:** Police Chief Mark Whitacre  
**Department:** Police Department  
**Legal Review:**  N/A

**AGENDA CAPTION**

Approval of the Western Region Radio System annual budget for Fiscal Year 2020-2021.

**BACKGROUND**

In 2013, the counties of Blanco, Burnet, Llano and the City of Marble Falls entered into an agreement to jointly establish and operate a VHF digitally trunked radio system for the western three counties of the Capital Area Council of Government known as the Western Regional Radio System (W.R.R.S.)

Since Fiscal Year 2014-2015, W.R.R.S. has successfully operated on an annual budget of \$273,792.00. Funding to provide for the W.R.R.S. is derived from charging a subscription fee of \$16.00 per month for every radio that utilizes the regional radio system. It has not been necessary to adjust the fee amount since the W.R.R.S. inception in 2013.

The requested Fiscal Year 2020-2021 budget is for \$312,536.00, an increase of \$38,744.00.

Noted increases are to cover professional services, travel/mileage, software licensing and ethernet expenses. Professional services and travel/mileage are to cover expense of private contractor to setup and reprogram all of the radios on the W.R.R.S. system. Increase in annual software licensing fees from Motorola and necessity to increase Ethernet capacity for the system.

It will not be necessary to increase subscriber fees to cover this proposed budget increase. Funding for this budget will be covered by the additional radio count that has been added to the system over the last few years.

See attached requested budget.

# Western Regional Radio System - Department 4070

## BUDGET Request 10/01/2020 - 09/30/2021

BUDGET WORKSHEET For Fiscal: 10/2019-09/2020 Period Ending: 03/31/2020

Defined Budgets 10/2017-09/2018 10/2017-09/2018 10/2018-09/2019 10/2018-09/2019 10/2019-09/2020 10/2019-09/2020 10/2020-09/2021

	Total Budget	Total Activity	Total Budget	Total Activity	Total Budget	YTD Activity	DEPT REQUEST
<b>Fund: 160 - WESTERN CTY TOWER SYSTEM</b>							
<b>Department: 4070 - WESTERN COUNTIES TOWER</b>							
<a href="#">160-4070-3103</a> FRU SUPPLIES	5,300.00	0.00	5,800.00	0.00	5,800.00	0.00	5,800.00
<a href="#">160-4070-3300</a> OPERATING SUPPLIES	12,000.00	0.00	12,000.00	0.00	12,000.00	0.00	12,000.00
<a href="#">160-4070-4010</a> PROFESSIONAL SERVICES	2,700.00	0.00	2,700.00	0.00	2,700.00	0.00	17,700.00
<a href="#">160-4070-4250</a> TRAVEL/MILEAGE	660.00	0.00	660.00	0.00	660.00	0.00	2500.00
<a href="#">160-4070-4272</a> SOFTWARE LICENSING	64,000.00	62,839.44	64,725.00	64,724.28	64,000.00	31,381.12	80,904.00
<a href="#">160-4070-4374</a> ETHERNET	13,000.00	9,754.65	9,270.00	9,261.93	8,000.00	3,945.08	13,000.00
<a href="#">160-4070-4520</a> REPAIR & MAINTENANCE	169,632.00	38,719.84	172,637.00	74,386.04	174,632.00	24,625.78	169,632.00
<a href="#">160-4070-4990</a> MISCELLANEOUS	6,000.00	487.00	6,000.00	0.00	6,000.00	0.00	6,000.00
<a href="#">160-4070-5750</a> MACH/EQUIP(INVENTORIED)	500.00	500.00	0.00	0.00	0.00	0.00	0.00
<a href="#">160-4070-5760</a> MACH/EQUIP (CAPITALIZED)	0.00	0.00	0.00	0.00	0.00	4,652.00	5000.00
<b>Department: 4070 - WESTERN COUNTIES</b>	<b>273,792.00</b>	<b>112,300.93</b>	<b>273,792.00</b>	<b>148,372.25</b>	<b>273,792.00</b>	<b>64,603.98</b>	<b>312,536.00</b>

**July 7, 2020**

**6. CONSENT AGENDA**

- (h) Approval of a Professional Services Agreement with Langford Community Management Services, Inc. for grant management services associated with the NRCS EWP Grant. *Kacey Paul, City Engineer*
-



**Council Agenda Item Cover Memo**  
**July 7, 2020**

**Agenda Item No.:** 6(h)  
**Presenter:** Kacey Paul, P.E., City Engineer  
**Department:** Engineering  
**Legal Review:**

**AGENDA CAPTION**

Approval of a Professional Services Agreement with Langford Community Management Services, Inc. for grant management services associated with the NRCS EWP Grant.

**BACKGROUND INFORMATION**

The City was awarded an EWP grant from NRCS in May 2020 to remediate 5 sites that suffered damage after the October 2018 flood event. This project is underway and recently passed a 30% design review with NRCS on June 18.

Due to staffing restrictions and program requirements associated with many grants, grant management is recommended. Their service is critical to streamlining processes and communication between the City and NRCS. They will assist accurate recordkeeping, payment/reimbursements throughout the project, construction documentation, and project completion, including audit assistance.

The City has a long and positive history working with Langford in both application and administration of grants of many kinds. This professional services contract is for a total of \$40,000 and will include management services for the City through the remainder of the grant.

**RECOMMENDATION**

City staff recommends approval of Professional Services Contract with Langford Community management Services, Inc in the amount of \$40,000 for grant management services associated with the NRCS EWP Grant.

**Memo Contents:**

- Professional Services Contract

Pages 2 – 13

# Professional Services Contract

EWP# 5106

1

## ADMINISTRATION/PROFESSIONAL SERVICES

### PART I AGREEMENT

THIS AGREEMENT, entered into this \_\_\_\_ day of \_\_\_\_\_, by and between City of Marble Falls, hereinafter called the "City", acting herein by John Packer, Mayor hereunto duly authorized, and Langford Community Management Services, Inc. (LCMS) hereinafter called "the Contractor", acting herein by Judy Langford, President.

#### WITNESSETH THAT:

WHEREAS, City of Marble Falls desires to implement a bank stabilization project through funding from the Natural Resources Conservation Service's (NRCS) Emergency Water Protection (EWP) Program for the following: - bank stabilization & erosion control project through funding from the Natural Resources Conservation Service's (NRCS) Emergency Water Protection (EWP) Program for the following: - repair and stabilize banks at five sites through installation of rock rip rap and sheet piling under the general direction of United States Department of Agriculture, Natural Resources Conservation Service, administered by the Texas Department of Agriculture; and Whereas the City desires to engage Langford Community Management Services, Inc. to render certain [professional /administration] services in connection with this NRCS EWP Project, Contract Number # 5106 and with management of project sites specific to grant funding and alternative sites as necessary.

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 July \_\_\_\_, 2020. In any event, all of the services required and performed hereunder shall be completed no later than June 31, 2021.
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 Records - The U.S. Department of Agriculture Natural Resource Conservation Service, the Comptroller General of the United States 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 Emergency Watershed Protection award, in order to make audits, examinations, excerpts, and transcripts, and to close-out the City's EWP contract with NRCS.
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. LCMS will assure a final, complete copy of all records regarding the grant are provided to the City for retention.
6. Compensation and Method of Payment - The maximum amount of compensation and reimbursement to be paid hereunder shall not exceed Forty Thousand dollars (\$40,000.00) for administration. An additional fee will be negotiated for any documentation for in-kind services by the City, if necessary. 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 EWP 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

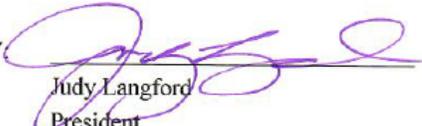
- a. This Agreement shall be construed under and in accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Burnet County, Texas.
- b. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, 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, [and if applicable, including the following exhibits/attachments: represents the entire and integrated agreement between the City and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. 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.

BY: \_\_\_\_\_  
Mike Hodge  
City Manager  
City of Marble Falls

BY:   
Judy Langford  
President  
Langford Community Management Services, Inc.

**PART II**  
**SCOPE OF SERVICES**

The Contractor shall provide the following scope of services:

**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. Furnish City with necessary forms and procedures required for implementation of project.
5. Assist the City in meeting all special condition requirements that may be stipulated in the contract between the City and NRCS.
6. Prepare and submit to NRCS documentation necessary for amending the EWP contract.
7. Conduct re-assessment of environmental clearance for any program amendments.
8. Prepare and submit quarterly reports (progress and minority hiring).
9. Prepare Financial Information Report for City.
10. Establish procedures to document expenditures associated with local administration of the project.
11. Maintain EWP Property Management register for any property/equipment purchased or leased.

Serve as liaison for the City during any monitoring visit by staff representatives from NRCS.

**B. Financial Management**

1. Assist the City in proving its ability to manage the grant funds to NRCS.
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 NRCS.
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.

**E. Construction Management Oversight**

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 EWP 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 EWP 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. Obtain Certificate of Construction Completion/Final Wage Compliance Report and submit to NRCS.
5. Provide general advice and technical assistance to City personnel on implementation of project and regulatory matters.

F. Audit / Close-out Procedures

1. Prepare the final Project Completion Report,
2. Assist City in resolving any monitoring and audit findings.
3. Assist City in resolving any third-party claims.
4. Provide auditor with EWP audit guidelines.

**PART III  
PAYMENT SCHEDULE**

City shall reimburse Contractor for management/administrative services provided for completion of the following project milestones per the following:

Milestone / Task	Fee
• Assist City with meeting all NRCS milestones listed in contract	\$10,000.00
• Program and Financial Management	\$20,000.00
• Filing of all Required Close-out Information	\$10,000.00
Total	\$40,000.00

Program and Financial Management to include following:

1. Assure the appointment of a contracting officer by the City assigning an authorized representative who will have authority to act in all contracting activities, listing their duties, responsibilities, and authorities. Furnish such information in writing to the NRCS State Conservationist.
2. Assure Compliance with the terms and conditions of the NRCS agreement and the general terms and conditions of the contract between the City and NRCS.
3. Assure that certification Form NRCS -ADS-78, Assurances Relating to Real Property Acquisition has been executed and submitted to NRCS.
4. Assure that all financial activities for this project in relationship to the EWP project have been accounted for and report FA and TA expenditures separately for expenses to be eligible for reimbursement. NRCS funding for this project is provided to the Sponsor in two separate NRCS funding accounts, one for TA and one for FA, requiring this separation.
5. Assure that all design, construction specifications, and drawings have been submitted to NRCS and that concurrence on the design, construction plans, and specifications has been received from the agency prior to bid award. A copy of the final signed and sealed plans and specifications shall be provided to NRCS.
6. Assure that Contract for services and construction is in accordance with the Code of Federal Regulations (CFR), 2 CFR § 200.317 through 200.326, applicable State regulations, and the Sponsor's procurement regulations, as appropriate. In accordance with 2 CFR § 200.326, contracts must contain the applicable provisions described in Appendix II to Part 200. Davis-Bacon Act does not apply under this Federal program legislation and administrative duties for such are not part of this contract.
7. Assure that no contracts for construction described in the agreement between the City and NRCS shall be awarded to any firm in which any Sponsor's official or any member of such official's immediate family has direct or indirect interest in the pecuniary profits or contracts of such firms. Reference 2 CFR § 200.318 regarding standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of contracts.
8. Assure that NRCS has been provided a copy of solicitation notice, bid abstract, and notice of contract award, or other basis of cost and accomplishment.
9. If in-kind construction services (materials, labor, and/or equipment supplied by the Sponsor) are used (even though not anticipated), assist in the development of a Plan of Operations describing the construction services to be performed including estimated quantities and values. The Plan of Operations shall be concurred in by NRCS at the pre-design conference. In-kind construction services for equipment shall not exceed published FEMA equipment rates unless otherwise documented and concurred in advance by NRCS. The City will amend LCMS's contract to assist in the documentation of these activities.
10. Assure submission of Quality Assurance Plan (QAP) to NRCS prior to commencement of work and/or solicitation of bids for review and concurrence. The QAP shall outline technical and administrative expertise required to ensure the EWP project measures are installed in accordance with the plans and specifications,

identify individuals with the expertise, describe items to be inspected, list equipment required for inspection, outline the frequency and timing of inspection (continuous or periodic), outline inspection procedures, and record keeping requirements. A copy of the final OAP shall be provided to NRCS prior to commencement of construction.

11. Assure submission to NRCS for concurrence an Operation and Maintenance (O&M) Plan, if applicable, prior to commence of work. The O&M Plan shall describe the activities the Sponsor will do to ensure the project performs as designed.
12. Assure Authority to Use Grant Funds from Environmental Review and completion has been received prior to bid award. Ensure that any special requirements for compliance with environmental and/or cultural resource laws are incorporated into the project.
13. Assure submission of PE-certified as-built drawings and quantities for the project. A copy of the as-built drawings will be submitted to the NRCS Program/Technical Contact.
14. Prepare and submit a SF-270, "Request for Advance or Reimbursement" to the NRCS Program/Technical Contact with all documentation to support the request. Final payment request shall be submitted within 90 calendar days of completion of the EWP project measures.
  - a. The required supporting documentation for reimbursement of construction costs include invoices and proof of payment to the contractor showing the items and quantities installed and certified by the engineer of record along with any supporting documentation such as quantity calculations, rock weight tickets, etc.
  - b. The required documentation for reimbursement of technical and administrative services will be invoices and proof or payment to consultants and/or employee time sheets along with the employee's hourly rate, hours worked, and date work was performed.
15. Ensure that information in the System for Award Management (SAM) is current and accurate until the final financial report (SF-425) under this award or final payment is received, whichever is later.
16. Prepare documents for retainage of all records dealing with the award and administration of the contract(s) for 3 years from the date of the City's submission of the final request for reimbursement or until final audit findings have been resolved, whichever is longer.
17. Submit performance reports on an annual basis to the Farm Production and Conservation (FPAC) Grants and Agreements Division staff via email to: FPAC.BC.GAD@usda.gov. Reports are due 30 calendar days after the reporting period and are based on the agreement period of performance start date.
18. Submit SF-425 Financial Reports on a semi-annual basis to the Farm Production and Conservation (FPAC) Grants and Agreements Division via email to: FPAC.BC.GAD@usda.gov. Reports are due 30 calendar days after the reporting period on July 31 and January 31. Please note that financial reporting is based on the calendar year.
19. Submit payment requests to the Farm Production and Conservation (FPAC) Grants and Agreements Division via email to: FPAC.BC.GAD@usda.gov on a monthly or quarterly basis. Refer to the General Terms and Conditions for more information regarding payment requests

LCMS will assure the following accomplishments and deliverable have been or will be provided to NRCS.

1. One copy of the final engineering plans, specifications signed and sealed by a licensed professional engineer, including engineer's cost estimate, and approved Plan of Operations (if applicable).
2. Signed NRCS-ADS-78 supported by an attorney's opinion.
3. One copy of the quality assurance plan.
4. One copy of the operation and maintenance plan.
5. One copy of the notice of solicitation, bid abstract, and notice of award.
6. Certification that the project was installed in accordance with the plans and specifications.
7. As-built drawings of final construction sign by a licensed professional engineer within 30 days of completion of construction.
8. Quantities of the units of work applied for each site within 30 days of completion of construction.

**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 / City and become the property of the City / 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. City may at any time and for any reason terminate Contractor's services and work at City's convenience upon providing written notice to the Contractor specifying the extent of termination and the effective date. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement.

Upon such termination, Contractor shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Contractor as are permitted by the prime contract and approved by City; (3) plus ten percent (10%) of the cost of the work referred to in subparagraph (1) above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Contractor prior to the date of the termination of this Agreement. Contractor shall not be entitled to any claim or claim of lien against City for any additional compensation or damages in the event of such termination and payment.

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. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or EWP program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within 30 days of receipt of a written notice of the dispute or invitation to negotiate, and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Agreement and choose a

mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. *[This section may also provide for the qualifications of the mediator(s), the locale of meetings, time limits, or any other item of concern to the parties.]* If the matter is not resolved through such mediation within 60 days of the initiation of that procedure, either party may proceed to file suit.

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.

1. 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.

2. 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.

3. 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.

4. 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 EWP award between NRCS and the City / 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 EWP award between NRCS 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 EWP award between NRCS 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 EWP award between NRCS 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.
5. 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."

#### Federal Civil Rights Compliance.

14. Equal Opportunity Clause (applicable to **federally assisted construction** 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.

*[If this Contract is greater than \$100,000, include the following Section 3 language:]*

19. Economic Opportunities for Section 3 Residents and Section 3 Business Concerns.
  - a. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
  - b. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
  - c. The Contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
  - d. The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The Contractor will not subcontract with any subcontractor where

the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

e. The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

f. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future HUD assisted contracts.

g. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this Agreement. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Agreement that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

**July 7, 2020**

**7. REGULAR AGENDA**

- (a) Public Hearing, Discussion and First Reading of Ordinance 2020-O-07A creating a construction work zone for traffic and temporarily reducing the speed limit on US Highway 281 in the City of Marble Falls. *Kacey Paul, City Engineer*
-



**Council Agenda Item Cover Memo**  
**July 7, 2020**

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

**AGENDA CAPTION**

Public Hearing, Discussion and First Reading of Ordinance 2020-O-07A creating a construction work zone for traffic and temporarily reducing the speed limit on US Highway 281 in the City of Marble Falls.

**BACKGROUND INFORMATION**

TxDOT will be widening US Highway 281 from State Highway 71 to Burnet/Blanco county line. The TxDOT Project ID is 0252-02-060.

The proposed ordinance is a temporary speed reduction ordinance during construction. TxDOT is requesting that the speed limit in the project area be reduced from 75 mph to 60 mph until construction is completed.

It is currently anticipated that construction on this project will begin in late 2020 and is estimated to take 12 months.

**RECOMMENDATION**

This is a Public Hearing and First Reading of the Ordinance. No action is required at this time.

**Memo Contents:**

- Location Map Pages 2 - 3
- Ordinance 2020-O-07A Pages 4 - 6

**LOCATION MAP**

**STATE OF TEXAS  
DEPARTMENT OF TRANSPORTATION**

**PLANS OF PROPOSED  
STATE HIGHWAY IMPROVEMENT**

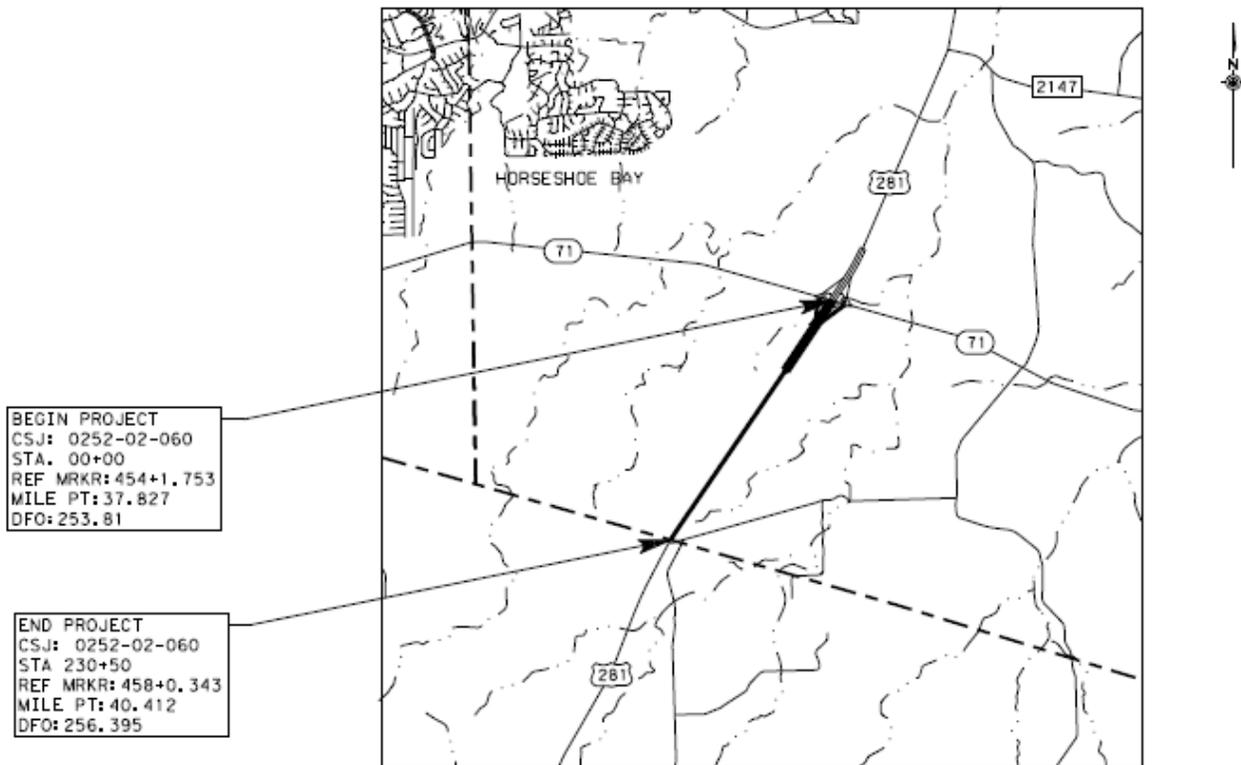
**FEDERAL AID PROJECT NUMBER  
NH 2B20(128)  
0252-02-060**

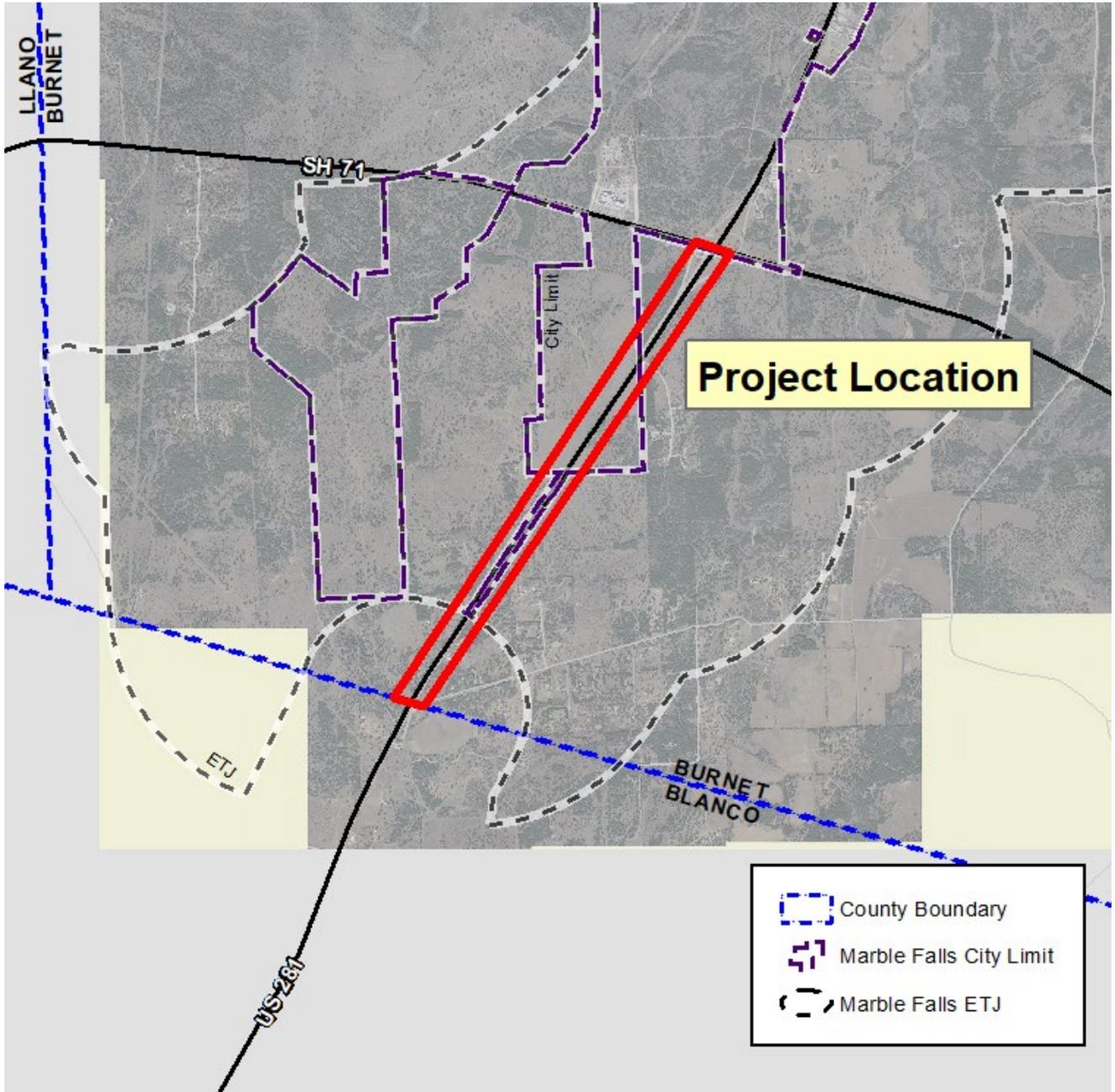
NET LENGTH OF PROJECT - 13,648.80 FEET - 2.585 MILES ——— ROADWAY = 13,648.80 FEET = 2.585 MILES  
BRIDGE - 0,00.00 FEET - 0.00 MILES

**BURNET COUNTY  
US 281**

FROM: SH 71  
TO: BLANCO COUNTY LINE

FOR THE CONSTRUCTION OF SAFETY IMPROVEMENT PROJECTS  
CONSISTING OF WIDEN WITH CONTINUOUS LEFT  
TURN LANE AND SHOULDERS





## **Exhibit A**

### **ORDINANCE 2020- O-07A**

**AN ORDINANCE OF THE CITY OF MARBLE FALLS, TEXAS CREATING A CONSTRUCTION WORK ZONE FOR TRAFFIC AND TEMPORARILY REDUCING THE RATE OF SPEED THEREIN, ON US HIGHWAY 281 IN THE CITY LIMITS OF THE CITY OF MARBLE FALLS; DEFINING THE SPEED LIMIT, REQUIRING THE PLACEMENT OF SIGNS; DECLARING WHAT MAY BE A SUFFICIENT COMPLAINT IN PROSECUTIONS HEREUNDER AND FIXING PENALTIES THEREFORE; WITH A SAVING CLAUSE AND EFFECTIVE DATE.**

**WHEREAS,** the City Council of the City of Marble Falls has determined that the construction, other than mobile operations as defined by the Texas Manual on Uniform Traffic Control Devices, is being undertaken on or near the sections of highway hereinafter defined; and

**WHEREAS,** in order to protect the traveling public and the workers during construction of the expansion of US Highway 281 from State Highway 71 South to Blanco County Line, it is necessary to reduce the maximum permitted speed limit during such construction period; and

**WHEREAS,** the increased penalties provide by State Law for the violation of such limits should be imposed to more effectively enforce such limits; and

**WHEREAS,** the speed limit to be effective in such a construction zone that is determined and requested by the Texas Department of Transportation, and;

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

#### **SECTION I**

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Marble Falls and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

#### **SECTION II**

A construction work zone is hereby established in accordance with Section 472.022 of the Transportation Code of the State of Texas for all lanes of traffic along US Highway 281 from State Highway 71 South to the city limits.

### **SECTION III**

For the above described zone, the prima facie maximum speed limit of 60 miles per hour in hereby established in the current 75 miles per hour zone.

### **SECTION IV**

Such speed limits will become effective upon installment of signage as authorized by the City Manager, for the duration of the construction, or until the signs which are to be erected pursuant to Section V below are authorized by the City Manager of the City of Marble Falls to be removed. Thereafter, the speed limit in the said construction zones will revert to the preconstruction speed limit of 75 miles per hour.

### **SECTION V**

The Texas Department of Transportation or its designee, is hereby directed to erect signs marking the above described construction zones to indicate that the area is a construction work zone, to indicate where the zone begins and ends, and which state “fines double when workers present.”

### **SECTION VI**

The driving or operating of any motor vehicle on or along any portion of the above designated construction zone at a rate of speed that is greater than the maximum rate authorized herein is a misdemeanor, which is named “The Offense of Speeding” and that the said offense is punishable by a fine in any sum not to exceed the amount established by Section 472.022 (d)(1) of the Transportation Code of the State of Texas as the same may be amended from time to time. The citation or notice to appear issued for such offense shall state on its face that workers were present when the offense was committed.

### **SECTION VII**

Should any section or any portion of any section hereof be declared to be void, the invalidity of such section or such portion thereof shall not affect the validity of the remaining portions of this Ordinance; and that each section and each portion thereof not decreed to be invalid shall remain valid and enforceable.

### **SECTION VIII**

This ordinance shall take effect immediately upon passage.

PUBLIC HEARING AND FIRST READING OF ORDINANCE – JULY 7, 2020.

READ, PASSED AND APPROVED ON THIS THE 4<sup>TH</sup> DAY OF AUGUST, 2020.

**APPROVED AND ADOPTED THIS 4<sup>th</sup> DAY OF AUGUST, 2020 by a vote of the City Council of the City of Marble Falls, Texas.**

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

Attest:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Patty L. Akers, City Attorney

**July 7, 2020**

**7. REGULAR AGENDA**

- (b) Discussion and Action on Contract Amendment No 1 for the EWP Contract with Miller Gray to include required cultural resource investigation for NHPA approval.  
*Kacey Paul, City Engineer*
-



**Council Agenda Item Cover Memo**  
**July 7, 2020**

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

**AGENDA CAPTION**

Discussion and Action on Contract Amendment No 1 for the EWP Contract with Miller Gray to include required cultural resource investigation for NHPA approval.

**BACKGROUND INFORMATION**

During the initial environmental assessment of the five (5) sites associated with the EWP Grant, it was determined that a cultural resource investigation, often referred to as a shovel test, would need to be conducted on the site.

Because this is a federally funded project, it is subject to a number of additional laws and requirements, including Section 106 of the National Historic Preservation Act (NHPA). NHPA requires federal agencies to identify and assess the effects their actions may have on historic buildings. More information can be found [here](#).

Shovel tests have been performed for other projects nearby, but none at the 5 sites. It is believed that the proposed test will be sufficient for environmental clearance in the permitting process, but this will not be confirmed until after testing is completed and results are analyzed.

Environmental clearance of the sites is a requirement by NRCS before construction can begin. This decision was reached after coordination with NRCS on the project.

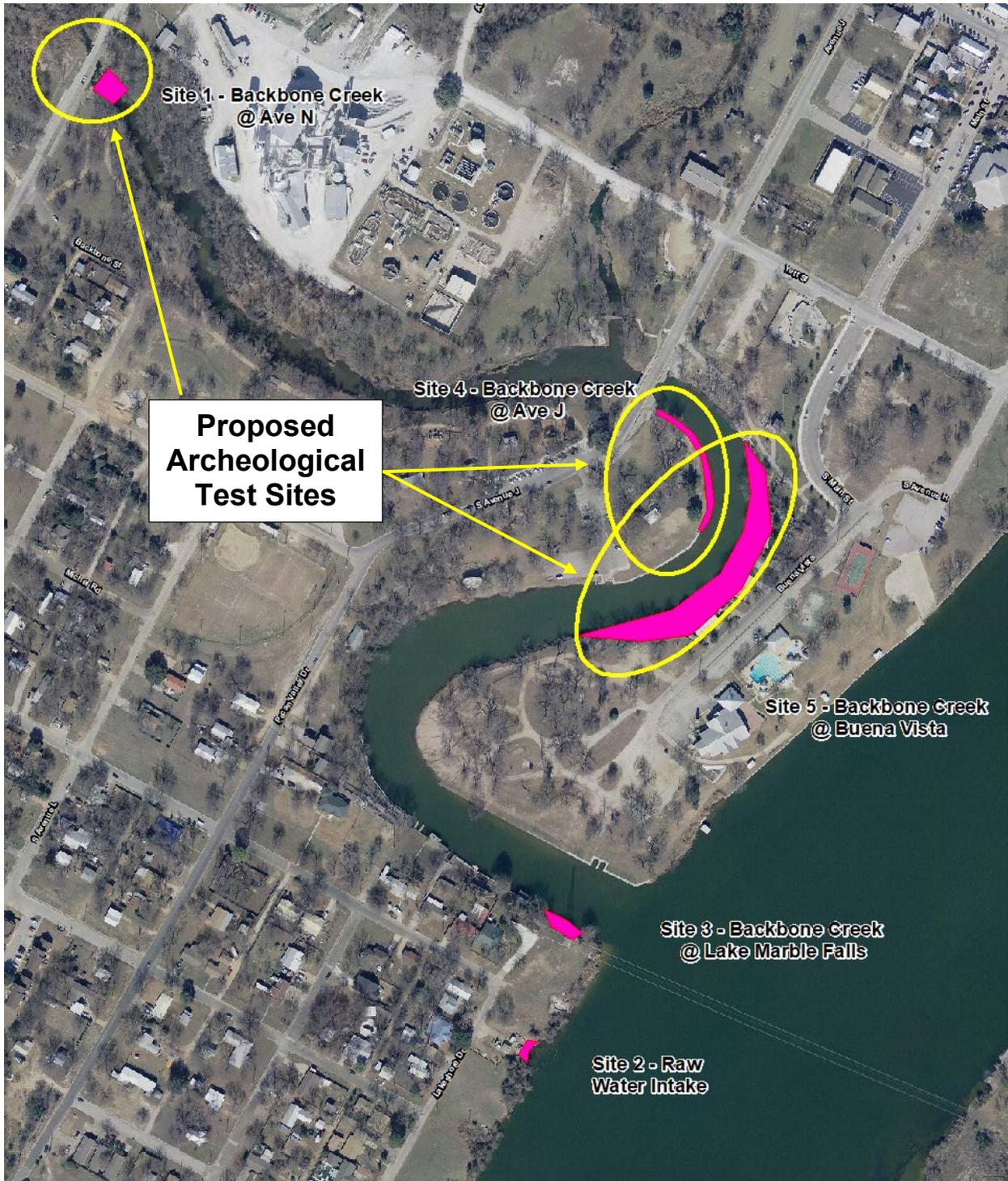
**RECOMMENDATION**

City staff recommends approval of Contract Amendment No 1 in the amount of \$12,055 with Miller Gray. This will increase the contract total from \$339,822 to \$351,877.

**Memo Contents:**

- Location Map Page 2
- Proposed Contract Amendment No 1 Page 3 to 10

# LOCATION MAP



# **Proposed Contract Amendment No. 1**



June 18, 2020

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

*Delivered via email kpaul@marblefallstx.gov*

**Re: Engineering Services for City of Marble Falls NRCS Emergency Watershed Protection Program (EWPP)  
Contract Addendum No. 1 – Archeological Field Investigation**

Dear Ms. Paul,

Miller Gray ("MG") is pleased to present this proposal to the City of Marble Falls ("Client") to provide additional professional engineering services for the NRCS Emergency Watershed Protection Program (EWPP) funded stream erosion, bank stabilization, and restoration projects. This Contract Addendum No. 1 is to provide an archeological field investigation of the project areas.

## **SCOPE OF WORK**

The work will be performed under Task 4.0 Final Design & Construction Documents.

### **Task 4.0 Final Design & Construction Documents**

ADD the following subtask paragraph:

- 4.10 Archeological Field Investigation - Based on initial archeological and data research, an archeological field investigation of the stabilization sites is proposed. The field investigation is outlined in Hicks & Company's attached proposal dated June 16, 2020.

*Deliverables:*

- *One (1) electronic copy of the Texas Antiquities Permit, archeological survey report and curation documents.*

## **SUBCONSULTANT SERVICES**

The nature of this project requires professional or consulting services from outside subconsultants. MG has included the following subconsultants under our contract to simplify the design and permitting process. Anticipated subconsultants are as follows:

Environmental Services (Hicks & Company) – See attached proposal for scope and fee.

**FEE SUMMARY**

The scope of services will be provided for the **fee amount of \$12,055** summarized on the attached Fee Estimate and will increase the Task 4.0 budget from \$203,197 to \$215,252. Fees for the above services will be invoiced monthly on a **lump sum basis** (percent complete) for the services performed that month.

This Contract Addendum No. 1 in the amount of \$12,055 will increase the total fee for BASE SERVICES (incl. expenses) from \$339,822 to \$351,877.

Miller Gray thanks you for this opportunity to provide this proposal and continue working with you on this project. If you have any questions, please call us at (512) 861-5300 or email Dale Gray, P.E. at dale.gray@miller-gray.com.

Sincerely,

**MillerGRAY**

TBPE Firm Reg. No. F-16302



Rachel Gray, MA  
President/CEO

Attachments

- Cc: Dale Gray, P.E., *Principal* – Miller Gray LLC
- Travis Wilson, P.E., CFM, *Principal* – Miller Gray LLC
- Sam Shorter, P.E., *Sr. Project Manager* – Miller Gray LLC

**Accepted By:**

City of Marble Falls  
Client

\_\_\_\_\_  
Signature Date

John Packer, Mayor  
Printed Name / Title

Task No.	Task or Work Product Description	Principal	Sr. Project Manager / Engineer	Project Manager / Engineer	Staff (EIT)	Sr. CAD Designer	CAD Designer	CAD Technician	Administrative	Miller Gray Subtotal	Subconsultant	Subconsultant Markup	Total Task Cost
		\$180	\$150	\$125	\$100	\$110	\$95	\$85	\$75		0%		
1.0	<b>Project Management</b>												
1.1	Pre-design Meeting with CoMF & NRCS (incl. FNI Task 1.1)									\$ -	\$ -	\$ -	\$ -
1.2	Project Progress Meetings									\$ -	\$ -	\$ -	\$ -
1.3	Project Progress Reports									\$ -	\$ -	\$ -	\$ -
1.4	Site Visit (incl FNI Task 1.3)									\$ -	\$ -	\$ -	\$ -
1.5	Subconsultant Project Management Process (FNI Task 1.2)									\$ -	\$ -	\$ -	\$ -
	<b>Task 1.0 Subtotal</b>	0	0	0	0	0	0	0	0	\$ -	\$ -	\$ -	\$ -
2.0	<b>Quality Assurance / Quality Control - Constructability (QA/QC-C)</b>												
2.1	Quality Assurance Plan									\$ -	\$ -	\$ -	\$ -
2.2	QC Reviews - Preliminary (30%), Draft (80%) and Final (100%) (FB) Submittals									\$ -	\$ -	\$ -	\$ -
	<b>Task 2.0 Subtotal</b>	0	0	0	0	0	0	0	0	\$ -	\$ -	\$ -	\$ -
3.0	<b>Preliminary Engineering (30%)</b>												
3.1	Data Collection									\$ -	\$ -	\$ -	\$ -
3.2	Environmental Assessments & Permitting (Hicks Tasks 1-5 & 7)									\$ -	\$ -	\$ -	\$ -
3.3	Surveys: Boundary/ROW/Topographic/Bathymetric/Tree (Provided by City)									\$ -	\$ -	\$ -	\$ -
3.4	Geotechnical Investigation, GDR (Holt Tasks 1-5)									\$ -	\$ -	\$ -	\$ -
3.5	Geotechnical Design Memorandum (FNI Task 2)									\$ -	\$ -	\$ -	\$ -
3.6	Hydraulic Analysis & Preliminary Design									\$ -	\$ -	\$ -	\$ -
3.7	Prepare 30% Plans									\$ -	\$ -	\$ -	\$ -
3.8	Prepare 30% OPCC									\$ -	\$ -	\$ -	\$ -
3.9	NRCS Coordination									\$ -	\$ -	\$ -	\$ -
	<b>Task 3.0 Subtotal</b>	0	0	0	0	0	0	0	0	\$ -	\$ -	\$ -	\$ -
4.0	<b>Final Design &amp; Construction Documents (80% Draft, 100% (FB))</b>												
4.1	Final Design (incl FNI Task 3)									\$ -	\$ -	\$ -	\$ -
4.2	Prepare 80% Plans (incl FNI Tasks 4.1, 4.4 & 4.5)									\$ -	\$ -	\$ -	\$ -
4.3	Prepare 80% Project Manual (incl FNI Task 4.2)									\$ -	\$ -	\$ -	\$ -
4.4	Prepare 80% OPCC (incl FNI Task 4.3)									\$ -	\$ -	\$ -	\$ -
4.5	Prepare 100% (FB) Plans (incl FNI Task 4.6)									\$ -	\$ -	\$ -	\$ -
4.6	Prepare 100% (FB) Project Manual (incl FNI Task 4.7)									\$ -	\$ -	\$ -	\$ -
4.7	Prepare 100% OPCC									\$ -	\$ -	\$ -	\$ -
4.8	Stormwater Pollution Prevention Plan									\$ -	\$ -	\$ -	\$ -
4.9	Other Permitting (CoMF, LCRMA) (incl. Hicks Task 6)									\$ -	\$ -	\$ -	\$ -
4.10	Archaeological Field Investigation	1	1	2	0	0	0	0	0	\$ 580	\$ 11,475	\$ -	\$ 12,055
	<b>Task 4.0 Subtotal</b>	1	1	2	0	0	0	0	0	\$ 580	\$ 11,475	\$ -	\$ 12,055
5.0	<b>Bid Assistance</b>												
5.1	Pre-bid Conference									\$ -	\$ -	\$ -	\$ -
5.2	Bid Assistance & Addenda									\$ -	\$ -	\$ -	\$ -
5.3	Bid Tabulation & Recommendation									\$ -	\$ -	\$ -	\$ -
	<b>Task 5.0 Subtotal</b>	0	0	0	0	0	0	0	0	\$ -	\$ -	\$ -	\$ -
	<b>TOTAL FEE - CONTRACT ADDENDUM No. 1 (incl. Expenses)</b>	1	1	2	0	0	0	0	0	\$ 580	\$ 11,475	\$ -	\$ 12,055

1504 WEST 5<sup>TH</sup> STREET AUSTIN, TEXAS 78703 TEL: 512 / 478-0858 FAX: 512 / 474-1849



ENVIRONMENTAL  
ARCHEOLOGICAL  
AND PLANNING  
CONSULTANTS

June 16, 2020

Sam Shorter, PE  
Miller Gray, LLC  
7320 N Mopac Expressway, Suite 203  
Austin, Texas 78731

**Re: Scope of Services and Cost Estimate – Cultural Resources Investigations for the City of Marble Falls NRCS Emergency Watershed Protection Program (EWWP) Project, Burnet County, Texas**

Dear Mr. Shorter:

The attached Scope of Services describes Hicks & Company's proposal for cultural resources investigations for the City of Marble Falls NRCS Emergency Watershed Protection Program (EWWP) Project, Burnet County, Texas. Because the project will occur on property owned by (and easements controlled by) the City of Marble Falls, a political subdivision of the State of Texas, the project is subject to the provisions of the Antiquities Code of Texas. Additionally, the proposed project is expected to utilize federal funding and will therefore be subject to Section 106 of the National Historic Preservation Act.

We appreciate the opportunity to submit this proposed Scope of Services and look forward to working with you on this project. If you have any questions regarding this Scope of Services or project cost, please feel free to contact me by phone at (512) 481-8012 or by email at [byoung@hicksenv.com](mailto:byoung@hicksenv.com).

Thank you,

A handwritten signature in black ink, appearing to read 'BS Young'.

Brandon S. Young  
Archeology Program Manager

Attachments: Scope of Services and Fee Estimate

**Scope of Services**  
**Cultural Resources Investigations for the City of Marble Falls NRCS Emergency**  
**Watershed Protection Program (EWPP) Project, Burnet County, Texas**  
**June 16, 2020**

**General Understanding of the Project**

The City of Marble Falls is proposing bank and shoreline improvements along segments of Backbone Creek, as well as at the mouth of the creek at its confluence with Lake Marble Falls/Colorado River, in Burnet County, Texas, under the Natural Resources Conservation Service (NRCS) Emergency Watershed Protection Program (EWPP). The proposed improvements will involve repairing flood damage by removing debris and stabilizing streambanks using rock riprap, sheet piling, and slope grading. All work will take place within the existing channel of Backbone Creek, as well as the adjacent banks. The proposed improvements will occur within five non-contiguous Construction Areas (CAs). From north to south, CA1 is at the Avenue N crossing of Backbone Creek, and CAs 2 through 5 are downstream between Avenue J and Lake Marble Falls/Colorado River.

In CA1, the proposed improvements will occur 50 feet upstream and 50 feet downstream of the Avenue N low water crossing at Backbone Creek, and include the dredging and reshaping of the channel to remove sediment, fill in scour areas with stone rip rap, and armor the sloped creek banks with stone rip rap. The proposed construction at CA2 just south of Backbone Creek at a Lower Colorado River Authority (LCRA) intake facility will consist of the installation of approximately 1,350 square feet of stone rip rap along the lake/river bank. CA3 is north of CA2 along the south bank of the mouth of Backbone Creek where there is an existing LCRA overhead transmission line tower and several concrete utility footers. The planned improvements at CA3 include grading and the installation of approximately 175 linear feet of sheet pilings. In CA4 just downstream from Avenue J, the proposed stabilization efforts will consist of the installation of approximately 365 linear feet of sheet pilings with a concrete cap. Downstream of CA4 and upstream of CA3, CA5 is on the left bank of Backbone Creek opposite Johnson Park and adjacent to Lakeside Park; stabilization efforts in CA5 will include extensive grading, the installation of approximately 1,200 linear feet of sheet pilings and 740 linear feet of limestone boulder wall. The area of potential effects (APE) will include linear and areal impacts. Areal impacts related to dredging, grading, and placement of stone rip rap and limestone boulders encompass 59,308 square feet (1.36 acres), whereas there are 1,740 linear feet of impacts proposed with the installation of sheet piling. Subsurface impacts are anticipated to extend to a maximum of 10 feet below ground surface.

Because the project will occur within property owned by (and easements controlled by) the City of Marble Falls, a political subdivision of the State of Texas, the project is subject to the Antiquities Code of Texas (ACT). Additionally, as the project will receive federal funding through the U.S. Department of Agriculture's National Resource Conservation Service (USDA NRCS) Emergency Watershed Protection Program (EWPP), and will be subject to U.S. Army Corps of Engineers (USACE) permitting, the project is subject to Section 106 of the National Historic Preservation Act (NHPA).

**Scope of Services**

In support of Section 106 and ACT compliance, the proposed archeological investigations will consist of coordination with the Texas Historical Commission (THC) to obtain a Texas Antiquities Permit authorizing survey investigations for the project; an intensive pedestrian archeological survey of CAs 1, 4, and 5 as recommended by Hicks & Company in a coordination letter for this project submitted to the THC on June 8, 2020; a desktop background review and context for historic resources; preparation of a single report of investigations describing survey efforts and results at the three surveyed CAs for submittal to the THC and NRCS archeologist; and curation of all project paperwork and photographs generated during the field investigations as per the requirements of the Texas Antiquities Permit.

#### ***Agency Coordination and Texas Antiquities Permit***

Hicks & Company will prepare an appropriate scope of work and Texas Antiquities Permit application for submittal to the THC for review. The scope of work will include the results of the archeological resources background review, as well as maps clearly depicting the project area. Additionally, the scope of work will discuss the environmental setting of the project, as it relates to the potential to discover intact archeological resources, and provide recommendations on the appropriate level of effort and methods for survey investigations based on the results of the background study and environmental factors.

#### ***Archeological Field Investigations***

The proposed field investigations will consist of an intensive, non-collection pedestrian archeological survey augmented with subsurface testing (i.e., shovel testing and backhoe trenching) within the APE at CAs 1, 4, and 5. Streamside locations containing recent (Holocene) alluvium and alluvial soils (such as CAs 1, 4, and 5) are considered to have a high potential for the occurrence of intact deeply buried archeological sites eligible for listing on the National Register of Historic Places (NRHP) or warranting State Antiquities Landmark (SAL) designation. Surface investigations will involve an examination of the ground surface, stream cutbanks, and any erosional exposures within the APE at CAs 1, 4, and 5 for evidence of archeological materials and cultural features. Subsurface investigations will involve the hand excavation of shovel tests and mechanical backhoe trenching to identify potential buried archeological materials. Shovel tests will be approximately 12 inches (30 centimeters [cm]) on a side and extend to a maximum depth of three feet (one meter [m]) below ground surface, unless bedrock or soil characteristics preclude excavations to that depth. All soil removed from shovel tests will be screened through ¼-inch hardware cloth for artifact recovery. Locations of all shovel tests will be plotted using a handheld Global Positioning System (GPS) receiver, and each test will be recorded on a standard Hicks & Company shovel test form.

Based on a review of the geology and soils within the APE, as well as the proposed depth of project impacts (i.e., a maximum of 10 feet below ground surface), backhoe trenching is warranted due to the potential for deeply buried archeological deposits. Backhoe trenching will proceed within CAs 1, 4, and 5 as necessary based on field conditions. Mechanical trenches will be approximately three feet (1 m) wide by 15 feet (5 m) long and extend to a maximum depth of 10 feet (3 m) below ground surface. When excavations extend deeper than 4.5 feet (1.4 m), archeologists will not enter the trenches, as per Occupational Safety and Health Administration (OSHA) rules for trench safety, unless the trenches are widened and stepped to prevent collapse. Archeologists will record and monitor deeper excavations from adjacent locations. Minimally, trenching will be monitored by two archeologists: one monitoring excavation and one monitoring the backdirt pile. Locations of all backhoe trenches will be plotted using a handheld GPS, and each trench will be recorded on a standard Hicks & Company backhoe trench form.

Should investigations identify archeological materials, archeological sites will be documented to the extent possible within the limits of the APE. Sites will be assessed for significance so that recommendations can be made for proper management, such as avoidance or additional work. Hicks & Company will complete a Texas Archeological Site Data Form, a detailed plan map of the site will be produced, and its location will be plotted on U.S. Geological Survey (USGS) 7.5-minute topographic quadrangle maps and relevant project maps.

#### ***Historic-age Resources and Standing Structures***

A review of the Texas Historic Sites Atlas for previously recorded historic standing structures, NRHP-listed properties and districts, SALs, Official Texas Historical Markers (OTHMs), and other historic features determined that there are no such recorded resources within or adjacent to the APE. However, a brief online archival review identified Johnson Park and Lakeside Park as historic-age resources within and adjacent to the APE. Johnson Park, located immediately west of CA4, was named for the founder of Marble Falls, General Adam Rankin Johnson, and was established as a public space in the original 1887 town plat. It and has been used as a public space since that time. Community events associated with the park include the local First Baptist Church's use of the park as a meeting place in the nineteenth century, its function as a camp in the 1930s for tent dwellers during the Great Depression, and a variety of other public functions and celebrations. Throughout the park are granite benches, monuments, and markers for local loved ones and those who served the country. Portions of Lakeside Park, which appears to have been established by the 1960s, are encompassed by CA5.

#### ***Reporting***

Upon completion of the archeological survey and historic-age resources desktop background review and context, Hicks & Company will prepare a single draft report of investigations for review by Miller Gray and the City of Marble Falls. The draft report will conform to the Council of Texas Archeologists' and THC's standards. The report will include the results of the historic background review and context, and the archeological survey. Specifically, the report will provide the methodology used in the investigations, the presence and condition of previously recorded sites located in and around the project area, a description of archeological/cultural resources encountered during the survey, recommendations for management of those resources, and recommendations for additional investigations, if warranted.

Following review and comment by Miller Gray and the City of Marble Falls, Hicks & Company will address all revisions, and the draft report will be submitted to the THC and NRCS for review and concurrence. Once the agencies have reviewed the document (anticipated 30-day review period) and provided the results of the review to Hicks & Company, revisions (if any) will be included in a final report. Hicks & Company will submit the final report to Miller Gray, the City of Marble Falls, the THC, and the NRCS.

#### ***Curation***

As per the requirements of the Texas Antiquities Permit, all field paperwork and photographs generated during investigations must be curated at an approved facility. For this project, Hicks & Company will use the Center for Archaeological Studies at Texas State University in San Marcos, Texas.

#### ***Deliverables***

1. A scope of work and Texas Antiquities Permit application will be prepared for submission to the THC for purposes of regulatory clearance under the ACT and Section 106.
2. An archeological survey report will be prepared for submission to the THC for purposes of regulatory clearance.
3. Project paperwork and photographs will be prepared and permanently curated at the Center for Archaeological Studies at Texas State University in San Marcos, Texas.

**Assumptions**

1. This Scope of Services does not include significance testing or data recovery excavations at any site recorded during survey investigations. Should such investigations be necessary, they would proceed under a separate scope of services and fee estimate.
2. The City of Marble Falls will arrange for right of entry to portions of the APE on private property.

**Estimated Costs**

Hicks & Company will complete this Scope of Services for a not-to-exceed cost of \$11,475.29, as per the attached itemized cost estimate. If additional services are required in order to complete the outlined tasks, a fee estimate will be provided to Miller Gray before any additional work is performed. This estimate assumes that Hicks & Company will provide the backhoe and operator necessary to complete the investigations. Should the City of Marble Falls be able to provide a backhoe and operator, the not-to-exceed cost to complete this Scope of Services would be \$9,465.29.

Archeological Survey, Reporting, and Curation	\$7,735.59
Historic Resources Background Research and Historic Context	\$969.60
<u>Direct Expenses (including backhoe and operator)</u>	<u>\$2,770.10</u>
Total	\$11,475.29

**July 7, 2020**

**7. REGULAR AGENDA**

- (c) Discussion and Action on Contract Amendment No 2 for the EWP Contract with Miller Gray to include engineering, environmental, and geotechnical analysis on alternate sites 1, 3, and 4. *Kacey Paul, City Engineer*
-



**Council Agenda Item Cover Memo**  
**July 7, 2020**

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

**AGENDA CAPTION**

Discussion and Action on Contract Amendment No 2 for the EWP Contract with Miller Gray to include engineering, environmental, and geotechnical analysis on alternate sites 1, 3, and 4.

**BACKGROUND INFORMATION**

The EWP grant from NRCS is a grant to remediate 5 sites that suffered damage after the October 2018 flood event. The City identified 4 sites immediately adjacent to the grant sites that could be added to the project to fully armor the peninsula and confluence of Backbone Creek into Lake Marble Falls.

The benefit to including these sites is that the cost of construction should be reduced due to increased quantity for the project, and proximity to the other project/decreased mobilization costs. There is also a savings in permitting, as these sites can be included in the permit for the 5 sites covered by the grant.

Lastly, adding these alternate sites will help protect the City and armor our infrastructure for any future events.

This contract amendment is for a total of \$80,681 and includes sites 1, 3, & 4. Site 2 is included in the current project contract.

**RECOMMENDATION**

City staff recommends approval of Contract Amendment No 2 in the amount of \$80,681 with Miller Gray, LLC. This will increase the contract total from \$351,877 (assuming approval of Contract Amendment No 1) to \$432,558.

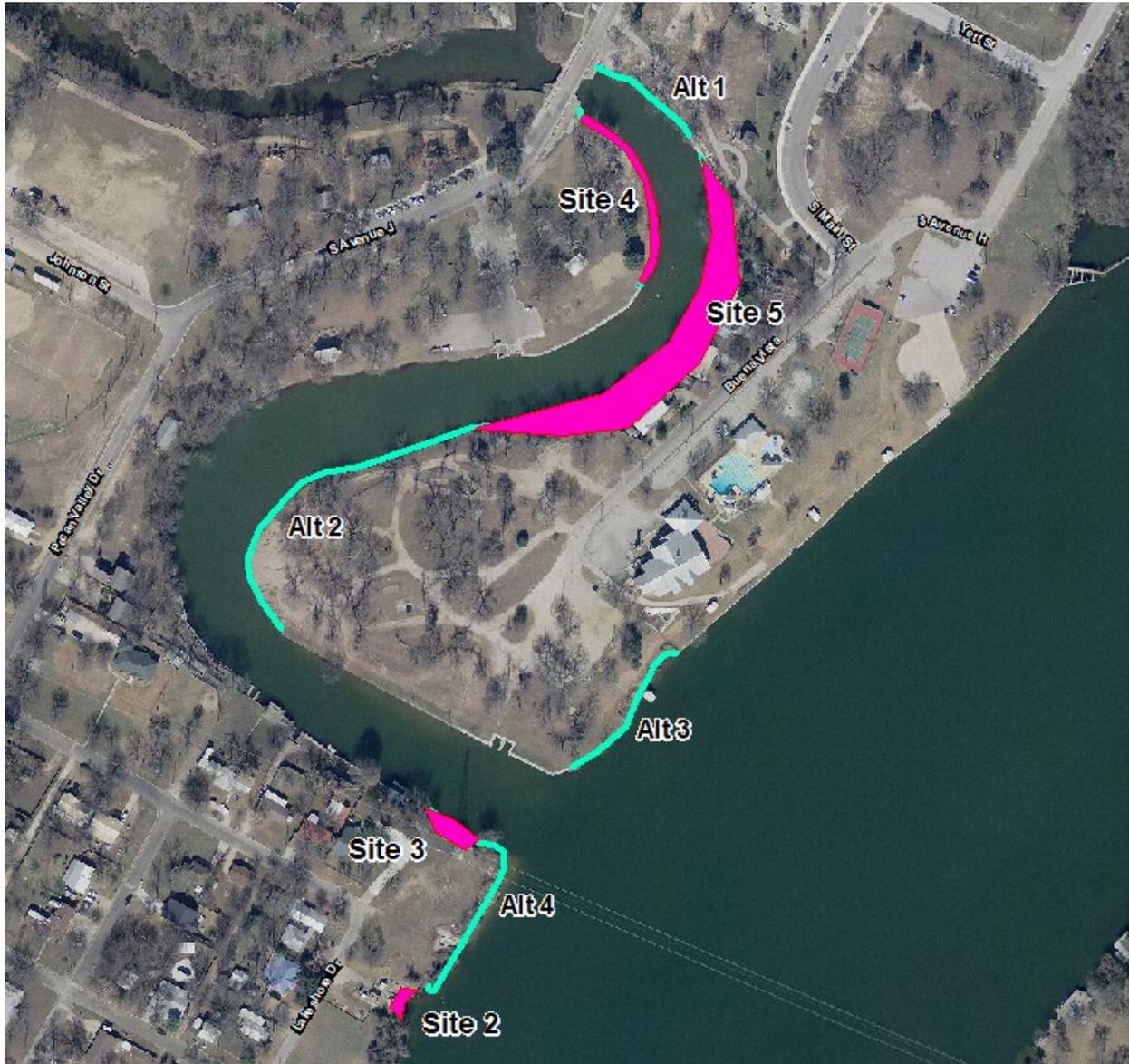
**Memo Contents:**

- Location Map
- Proposed Contract Amendment No 2

Page 2

Pages 3 - 20

**LOCATION MAP**



# **Proposed Contract Amendment No. 1**



June 19, 2020

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

*Delivered via email kpaul@marblefallstx.gov*

**Re: Proposal for Professional Engineering Services for City of Marble Falls NRCS  
Emergency Watershed Protection Program (EWPP)  
Contract Addendum No. 2 – Additional Stabilization Sites**

Dear Ms. Paul,

Miller Gray ("MG") is pleased to present this proposal to the City of Marble Falls ("Client") to provide additional professional engineering services for the NRCS Emergency Watershed Protection Program (EWPP) funded stream erosion, bank stabilization, and restoration projects. This Contract Addendum No. 2 is to provide design and permitting services for the following additional sites:

1. Alt Site 1 – Backbone Creek bank from Avenue J to the existing boat dock.
2. Alt Site 3 – Lake Marble Falls south of the existing park pavilion.
3. Alt Site 4 – Lake Marble Falls between the raw water intake stabilization area and the former LCRA transmission tower location at the confluence with Backbone Creek.

## **SCOPE OF WORK**

Its understood that this work will be funded independent of the NRCS funded sites and has been separated into a separate task.

### **Task 6.0 Additional Stabilization Sites 1, 3 & 4**

Miller Gray will be the managing representative of the design team and will directly coordinate with the City Engineer (Kacey Paul). Miller Gray will also internally manage the subconsultants and provide a single point of contact.

- 6.1 Project Management – MG will provide on-going project management of the additional site designs concurrently with the original sites, incorporating this work into the project progress meetings and reporting.
- 6.2 Site Visits – Miller Gray and applicable subconsultants will visit the additional sites and document field conditions and discuss design concepts with City staff.

- 6.3 QA/QC – The project will be submitted for QC review at each major submittal (preliminary 30%, draft 80% and final 100% Invitation for Bid 'IFB'). Subconsultants work will be reviewed internally for consistency and conformance to the project goals and design.
- 6.4 Data collection – using the conceptual exhibits, Miller Gray and it's subconsultants will obtain data of existing and proposed environmental and soil conditions, utilities, and other improvements. Miller Gray will obtain existing reports and designs, existing hydrology and hydraulic models from FEMA / Burnet County, and existing LCRA projects.
- 6.5 Environmental Assessment & Permitting – Hicks & Co., Inc. will provide delineation of Waters of the US (WOTUS), investigation of the potential occurrence of threatened or endangered species, investigation of potential adverse effects to cultural resources and other areas required by NRCS, and identify other environmental permitting requirements in accordance with their attached proposal. Hicks & Co. will prepare the USACE Nationwide Permit Preconstruction Notification (PCN) with Miller Gray providing design plans, schematics and estimates of disturbance and fill within the jurisdictional waters of the US.
- 6.6 Surveys – Cuplin & Associates will provide boundary, topographic, bathymetric, and tree surveys as described in their proposal to the City of Marble Falls. ***The surveyor will contract directly with the City.***
- 6.7 Geotechnical Investigations (GDR) – Holt Engineering, Inc. will provide soil borings and sampling, and geotechnical investigations in accordance with their attached proposal.
- 6.8 Geotechnical Design Memorandum (GDM) – Freese & Nichols, Inc. will provide a geotechnical design memorandum including developing engineering properties for slope stability analysis at Additional Sites #3 and #4.
- 6.9 Hydraulic Analysis & Preliminary Design – The information gathered in the previous subtasks will be used to prepare base maps with environmental constraints, topographic and geotechnical soil information. Miller Gray along with Freese & Nichols will evaluate erosion and bank stabilization measures and develop preliminary design drawings.
- 6.10 Prepare 30% Plans & OPCC – Preliminary plans showing the location of proposed improvements (1"=20' scale or appropriate), identify potential temporary and permanent easement locations, and potential contractor storage and staging areas. Prepare an Opinion of Probable Construction Cost (OPCC) for all five stabilization sites with appropriate design and construction contingencies.
- 6.11 Final Design – Miller Gray will provide final design of erosion stabilization at all 3 additional sites, including final scour analysis, rock rip-rap sizing and final soil blanket determinations. Freese & Nichols will provide final geotechnical engineering analysis, including stability analyses, and structural design of the sheet pile walls, concrete caps, and soil wall nail system in accordance with their attached proposal.
- 6.12 Plans, Project Manual & OPCC – Prepare plan and profiles of stabilization design. The plans will be prepared on 22" x 34" sheets that are provided half-scale on 11" x 17" sheets to be included with the other sites. Freese & Nichols will provide structural design plans, details and sections to be included in the plan set. The plans and OPCC will be submitted at the 80% and 100% (IFB) complete stages for City review. The Additional sites will be presented as "additive alternates" in the bid form. Address City comments on the 80% documents and include the final designs in the Invitation of Bid ready construction document plan set

- 6.13 Permitting – The additional stabilization sites will be included in the permitting for the overall project including SWPPP, archeological investigations, USACE Nationwide Permitting, LCRA Dredge & Fill, etc.

*Deliverables:*

- *Photo documentation of each site.*
- *One (1) electronic copy of the 30% plans and OPCC in PDF format.*
- *One (1) electronic copy all geotechnical reports.*
- *One (1) electronic copy of the plans, project manual, and OPCC at the 80% complete stage in PDF format.*
- *Three (3) printed copies of 11" x 17" (half-size) plans sets and project manuals at the 80% complete stage.*
- *One (1) electronic copy of the plans, project manual, and OPCC for Invitation for Bid (IFB) in PDF format.*
- *One (1) printed copy of 22" x 34" (full size) plan set and three (3) printed copies of 11" x 17" (half-size) plans sets and project manuals at the IFB complete stage.*

## **SUBCONSULTANT SERVICES**

The nature of this project requires professional or consulting services from outside subconsultants. MG has included the following subconsultants under our contract to simplify the design and permitting process. Anticipated subconsultants are as follows:

Geotechnical Services (Holt Engineering, Inc.) – See attached proposal for scope and fee.

Environmental Services (Hicks & Company) – See attached proposal for scope and fee.

Geotechnical & Structural Engineering Services (Freese & Nichols, Inc.) – See attached proposal for scope and fee.

## **SPECIAL CONDITIONS**

No additional special conditions.

## **FEE SUMMARY**

The scope of services will be provided for the **fee amount of \$80,681** summarized on the attached Fee Estimate. Fees for the above services will be invoiced monthly on a **lump sum basis** (percent complete) for the services performed that month.

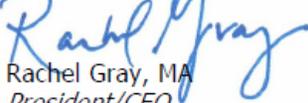
This Contract Addendum No. 2 in the amount of \$80,861 will increase the total fee for all services including BASE SERVICES plus CONTRACT ADDENDUM No. 1, from \$351,877 to \$432,558.

Miller Gray thanks you for this opportunity to provide this proposal and continue working with you on this project. If you have any questions, please call us at (512) 861-5300 or email Dale Gray, P.E. at dale.gray@miller-gray.com.

Sincerely,

**MillerGRAY**

TBPE Firm Reg. No. F-16302

  
Rachel Gray, MA  
President/CEO

Attachments

Cc: Dale Gray, P.E., *Principal* – Miller Gray LLC  
Travis Wilson, P.E., CFM, *Principal* – Miller Gray LLC  
Sam Shorter, P.E., *Sr. Project Manager* – Miller Gray LLC

**Accepted By:**

City of Marble Falls  
Client

\_\_\_\_\_  
Signature Date

John Packer, Mayor  
Printed Name / Title

Task No.	Task or Work Product Description	Principal	Sr. Project Manager / Engineer	Project Manager / Engineer	Engineering Staff (EIT)	Sr. CAD Designer	CAD Designer	CAD Technician	Administrative	Miller Gray Subtotal	Subconsultant	Subconsultant Markup	Total Task Cost	
6.0	Additional Stabilization Sites 1, 3 & 4													
6.1-6.3	Project Management, Site Visit & QA/QC	2	4	4	2					\$ 1,660	\$ -	\$ -	\$ 1,660	
6.4	Data Collection			2	4					\$ 650	\$ -	\$ -	\$ 650	
6.5	Environmental Assessments & Permitting (Hicks Tasks 1-5 & 7)			1	1					\$ 225	\$ 3,765	\$ -	\$ 3,990	
6.6	Surveys, Boundary/ROW/Topographic/Bathymetric/Tree (Provided by City)		1		2	1	4			\$ 840	\$ -	\$ -	\$ 840	
6.7	Geotechnical Investigation, GDR (Holt Tasks 1-5)		1		2		1			\$ 445	\$ 3,080	\$ -	\$ 3,525	
6.8 - 6.13	ADDITIONAL SITES 1 & 3 - Geotechnical Design Memorandum, preliminary and final design, construction documents, and final permitting	1	8	20	48	8	70			\$ 16,210	\$ 13,054	\$ -	\$ 29,264	
6.8 - 6.13	ADDITIONAL SITE 4 - Geotechnical Design Memorandum, preliminary and final design, construction documents, and final permitting	1	4	16	32	4	40			\$ 10,220	\$ 30,532	\$ -	\$ 40,752	
Task 6.0 Subtotal											\$ 30,250	\$ 50,431	\$ -	\$ 80,681
<b>TOTAL FEE - CONTRACT ADDENDUM No. 2 (Incl. Expenses)</b>											<b>\$ 30,250</b>	<b>\$ 50,431</b>	<b>\$ -</b>	<b>\$ 80,681</b>

1504 WEST 5TH STREET AUSTIN, TEXAS 78703 TEL: 512 / 478.0858 FAX: 512 / 474.1849



ENVIRONMENTAL  
ARCHEOLOGICAL  
AND PLANNING  
CONSULTANTS

May 12, 2020

Mr. Dale Gray, P.E.  
Miller Gray LLC  
7320 N. Mopac Expressway, Suite 203  
Austin, TX 78731

RE: Additional Services, City of Marble Falls NRCS EWPP

Dear Mr. Gray,

This letter transmits a fee estimate for professional environmental services to identify environmental constraints and permitting requirements associated with additional site options for proposed construction of the City of Marble Falls NRCS EWPP. The services reflected by the attached fee estimate have been requested by Miller Gray and are in addition to those services currently authorized under the existing subconsultant agreement between Hicks & Company and Miller Gray dated April 28, 2020.

We very much appreciate the opportunity to provide Miller Gray with these services.

Sincerely,

A handwritten signature in blue ink that reads "Roy G. Frye".

Roy G. Frye  
Senior Project Manager

Attachment

**HICKS & COMPANY ENVIRONMENTAL/ARCHEOLOGICAL CONSULTANTS**  
**FEE ESTIMATE FOR EVALUATION OF ADDITIONAL CONSTRUCTION FEATURES\***  
 May 11, 2020

<b>LABOR</b>	Sr. Env'l Scientist II \$151.50	Env'l Scientist II \$121.20	Env'l Prof III \$106.05	Env'l Prof II \$96.96	Env'l Prof I \$86.35	Env'l Staff I \$69.69	<b>TOTAL</b>
<b>TASK 1 - Identification of Waters of U.S.</b>							
Pre-field Research							0.0
Site Investigation/GPS mapping of WOTUS	3	3					6.0
Compilation/tabulation of data		3					3.0
USACE Coordination		2					2.0
GIS/Graphics			2				2.0
PM/QA-QC	1						1.0
Task 1 Labor Hours	4.0	8.0	2.0	0.0	0.0	0.0	14.0
Task 1 Subtotal	\$ 606.00	\$ 969.60	\$ 212.10	\$ -	\$ -	\$ -	\$ 1,787.70
<b>Task 5 - Completion of Alternatives Analysis</b>							
Waters of the U.S.		1					1.0
T&E		1					1.0
Cultural Resources		1					1.0
Other Environmental Components		1					1.0
GIS Support		1					1.0
PM/QA-QC	1						1.0
Task 5 Labor Hours	1.0	5.0	0.0	0.0	0.0	0.0	6.0
Task 5 Subtotal	\$ 151.50	\$ 606.00	\$ -	\$ -	\$ -	\$ -	\$ 757.50
<b>Task 7 - Preparation of Report Supplement, if required</b>							
Compile Results of Alt Evaluation	2	1					3.0
Prepare Report	2	1					3.0
GIS Support			1				1.0
PM/QA-QC	1						1.0
Task 7 Labor Hours	5.0	2.0	1.0	0.0	0.0	0.0	8.0
Task 7 Subtotal	\$ 757.50	\$ 242.40	\$ 106.05	\$ -	\$ -	\$ -	\$ 1,105.95
Category Total Hours	10.0	15.0	3.0	0.0	0.0	0.0	28.0
Category Total Cost	\$ 1,515.00	\$ 1,818.00	\$ 318.15	\$ -	\$ -	\$ -	\$ 3,651.15
<b>TOTAL LABOR</b>							<b>\$ 3,651.15</b>
<b>DIRECT EXPENSES</b>							
	<b>Unit</b>	<b>Rate</b>	<b>Quantity</b>				<b>TOTAL</b>
Mileage (94 miles/trip, 1 trip)	mile	\$0.575	94				\$ 54.05
Backhoe and operator	day	\$1,650.00	0				\$ -
Curation Fee	each	\$325.00	0				\$ -
Field supplies (GPS rental)	day	\$60.00	1				\$ 60.00
<b>TOTAL DIRECT EXPENSES</b>							<b>\$ 114.05</b>
<b>TOTAL COST</b>							<b>\$ 3,765.20</b>
*Additional construction features were identified by e-mail from Miller Gray on April 29, 2020, as three separate alternatives for which separate costs estimates were provided. This fee estimate represents a consolidation of the alternatives into a single project as requested by a telephone conference with Miller Gray on May 11, 2020.							

---

GEOTECHNICAL ENGINEERING  
DRILLING & SAMPLING  
FOUNDATION DESIGN

# HOLT

ENGINEERING, INC.

---

CONSTRUCTION INSPECTION  
LABORATORY TESTING  
MATERIALS TESTING

21 May 2020

Miller Gray  
P.O. Box 303130  
Austin, Texas 78703

Attn: Mr. Dale Gray, P. E.

Re: Erosion Mitigation Projects Additional Services for Alt. 1 and Alt. 4  
Backbone Creek and Lake Marble Falls  
City of Marble Falls, Texas

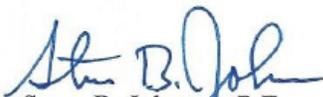
Dear Mr. Gray:

As per your request we are providing a cost estimate for a Geotechnical Services for the above referenced projects. The purpose of the investigation is to determine subsurface soil conditions at the site and obtain samples for laboratory testing in order to provide geotechnical design parameters for waterfront erosion mitigation. The projects include additional bank stabilization at Alternate 1 (north of the Water Intake on Lakeshore Drive to the LCRA Transmission Line) and Alternate 4 (North bank of Backbone Creek from Ave J to the existing dock).

We plan to investigate the site by drilling, logging and sampling 2 soil borings ranging from 25 feet to 35 feet each. The number and depth of the borings will be dependent on actual soil conditions encountered. If varying soil conditions are encountered, then the borings may need to be deeper or additional borings may need to be drilled. Laboratory testing will be performed on selected samples and data obtained will be used to determine the engineering characteristics of the soil. Laboratory testing include Atterberg Limits, Moisture Contents, Minus 200 Sieves. Our engineering report will include boring logs, boring location plan, laboratory test results, description of soil conditions and bulkhead wall design parameters.

The cost for the above work will be on the order of \$3,080.00. We guarantee not-to-exceed this cost figure without client approval. An itemized cost estimate is attached. If these costs are satisfactory, please sign and return a copy to us for our files. We appreciate the opportunity to offer our services. If we can answer any questions concerning the above, please do not hesitate to call.

Sincerely,



Steve B. Johnson, P.E.

Geotechnical Division Manager

Holt Engineering, Inc.  
TBPE Firm Registration No. F-430

**GEOTECHNICAL INVESTIGATION  
FOR  
CITY OF MARBLE FALLS EROSION PROJECTS ADDITIONAL SERVICES  
BACKBONE CREEK AND LAKE MARBLE FALLS  
MARBLE FALLS, TEXAS**

**COST ESTIMATE**

1.	Drilling Coordinator – 3 Hrs. @ \$110.00/Hr. ....	330.00
2.	Rig Mobilization:.....	N/C
	Support Truck and Crew Travel Time .....	300.00
3.	Drilling, Logging, and Sampling:	
	Alternate 1 (north of the Water Intake on Lakeshore Drive)	
	1 Boring @ 25 feet @ \$18.00 Ft. ....	450.00
	Alternate 4 (North bank of Backbone Creek from Ave J to the existing dock)	
	1 Boring @ 35 feet – 35 LF @ \$18.00/Ft.....	630.00
4.	Laboratory Testing	
	Atterberg Limits, Moisture Content, Minus 200 Sieve, Etc. ....	570.00
5.	Engineering Report :.....	800.00
	<b>TOTAL ESTIMATED COST .....</b>	<b>\$ 3,080.00</b>

**CLIENT INFORMATION:** (Responsible Billing Party)

This information must be filled out before the geotechnical investigation can be scheduled. The undersigned agrees to the above scope of work and following conditions and is responsible for payment.

Company Name (if applicable): \_\_\_\_\_ Date: \_\_\_\_\_  
 Printed Name/Title: \_\_\_\_\_ Signature: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 \_\_\_\_\_ Email: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

21 May 2020  
Page 2 of 3



2220 Barton Skyway – Austin, Texas – 78704 – Ph. (512) 447-8166 – Fax (512) 447-0852

**THE ABOVE COST ESTIMATE IS BASED ON THE FOLLOWING CONDITIONS:**

1. Holt will notify TEXAS 811 to locate public utilities. All city or private utilities on the site will be marked by the Owner prior to scheduling the drilling operation. Holt will make a reasonable effort to avoid underground utilities; however, if a utility should be breached it is the property owner's responsibility for repairs.
2. The attached cost estimate will change based on changes or alterations to the scope of services. Additional costs may be incurred for engineering consultation with the Architect, Civil or Structural Engineer, and/or Contractor.
3. The cost estimates included in this proposal are guaranteed for 90 days from the date of this cost estimate.
4. Items and costs provided in the cost estimate may be moved between the various work elements to accommodate the overall project budget.
5. Payment is due within 30 days Net from date of invoice. Clients with outstanding balances past 30 days are subject to a late fee. It is the client's responsibility to report billing errors immediately upon receipt. Holt Engineering, Inc. is not responsible for billing errors not reported within 30 days of billing.
6. This is an agreement between the parties, whose names appear above, and no one else. Further, this agreement is not intended for any other person's benefit. The parties agree that there are no express or implied warranties applicable to the professional services provided under this agreement; instead, performance under this agreement will be measured by the standards of care applicable to licensed professional engineers in Texas.

We appreciate the opportunity to submit this proposal and look forward to working with you on this project. Please call us if we can be of any additional assistance.

21 May 2020  
Page 3 of 3



2220 Barton Skyway – Austin, Texas – 78704 – Ph. (512) 447-8166 – Fax (512) 447-0852

## SCOPE OF SERVICES AND RESPONSIBILITIES OF CLIENT

### PROJECT UNDERSTANDING

Miller-Gray (Client) is assisting the City of Marble Falls (City) with engineering services for stream erosion stabilization and restoration projects. Services include engineering analysis, preliminary and final design plans, permitting, construction and bid documents. Interim and final construction inspections are not included but may be added as an additional service. The City has secured USDA Natural Resources Conservation Service (NRCS) National Emergency Watershed Protection Program (EWPP) funding for project implementation. Funding for five (5) sites have been approved for design and construction. Freese and Nichols, Inc and Miller-Gray are under contract for services related to sites #3, 4, and 5 dated April 29, 2020.

The City has requested additional design services for three alternate sites, which are named in the attachment Alt 1, Alt 3, and Alt 4. FNI is to perform the following scope of basic services to address bank erosion and damage to restore the riverbank at sites Alt 1, and Alt 3 with a sheet pile wall. FNI is to perform the following scope of special services to address bank erosion and damage to restore the riverbank at sites Alt 4 a sheet combi-pile wall. FNI will prepare structural drawings to secure a qualified construction contractor for implementation. NRCS will perform a cursory review of the construction documents for general compliance with the terms of the grant agreement.

### ARTICLE I

**BASIC SERVICES:** FNI shall render the following professional services in connection with the development of the Project:

- A. PROJECT MANAGEMENT: FNI shall provide professional services in this phase as follows:
  - 1. Establish a schedule, coordinate information between FNI and Client, and other efforts in support of this project. Coordinate Quality Control (QC)/Quality Assurance (QA) by Senior Management and Technical Staff consistent with FNI's established internal quality review processes. Coordinate conference calls and project updates as necessary for the project as the project progresses.
- B. DESIGN PHASE-ALT 1, and ALT 3: FNI shall provide professional services in this phase as follows:
  - 1. Perform engineering analysis of the identified riverbank stabilization including:
    - a. Global slope stability analysis (at the end of construction, long term with drained soil condition, and river rapid drawn down with saturated soil condition)
    - b. Sheet pile stability
  - 2. Perform structural analysis of the identified riverbank stabilization including:
    - c. Concrete cap
    - d. Sheet pile design
- C. CONSTRUCTION DOCUMENTS: FNI shall provide professional services in this phase as follows:

1. Prepare structural drawings, designs, and layouts of the bank stabilization measures at Alt 1 and Alt 3.
2. Provide design submittals at 80% and IFB level design milestones.
3. Conduct review meeting (in-person) to discuss Miller-Gray comments regarding the 80% construction documents. Revise contract documents to address comments. Client comments are to include comments by City and NRCS, if any.
4. Furnish Client one (1) electronic copy (.pdf format) of drawings, specifications, and bid proposals marked for approval by Client, for the 80% submittal as described above. Upon final approval by Client, FNI will provide one (1) set of reproducible IFB drawings.

## ARTICLE II

**SPECIAL SERVICES:** FNI shall render the following professional services, which are not included in the Basic Services described above, in connection with the development of the Project:

- D. DESIGN PHASE- ALT 4: FNI shall provide professional services in this phase as follows:
1. Perform engineering analysis of the identified riverbank stabilization including:
    - a. Global slope stability analysis (at the end of construction, long term with drained soil condition, and river rapid drawn down with saturated soil condition)
    - b. Shallow slope failure
    - c. Sheet pile stability
    - d. Secondary wall stability
  2. Coordinate with Client on the ALT #4 upper retaining wall and lower sheet pile design.
  3. Perform structural analysis of the identified riverbank stabilization including:
    - a. Concrete cap
    - b. Sheet pile design
    - c. Secondary wall design at Alt 4
    - d. Tie-ins to existing sheet pile
- E. CONSTRUCTION DOCUMENTS: FNI shall provide professional services in this phase as follows:
1. Prepare concept level figures of typical sections to Miller-Gray for development of Alt 4 site civil drawings.
  2. Prepare structural drawings, designs, and layouts of the bank stabilization measures at Alt 4.
  3. Provide design submittals at 80% and IFB level design milestones.
  4. Conduct review meeting (in-person) to discuss Miller-Gray comments regarding the 80% construction documents. Revise contract documents to address comments. Client comments are to include comments by City and NRCS, if any.

5. Furnish Client one (1) electronic copy (.pdf format) of drawings, specifications, and bid proposals marked for approval by Client, for the 80% submittal as described above. Upon final approval by Client, FNI will provide one (1) set of reproducible IFB drawings.

### ARTICLE III

**ADDITIONAL SERVICES:** Any services performed by FNI that are not included in the Basic Services or Special Services described above are Additional Services. Additional Services to be performed by FNI, if authorized by Client, are described as follows:

1. Site civil drawings including but not limited to plan views, profile views, and sectional views.
2. Bidder's proposal items (project quantities) of the improvements to be constructed at Alt 1, 3, and 4.
3. Hydrology and Hydraulics or Geomorphologic assessment and design of the site.
4. Construction Phase Services
5. Field layouts or the furnishing of construction line and grade surveys.
6. Making property, boundary and right-of-way surveys, preparation of easement and deed descriptions, including title search and examination of deed records.
7. Providing services to investigate existing conditions or facilities, or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by Client.
8. Making revisions to drawings, specifications or other documents when such revisions are 1) not consistent with approvals or instructions previously given by Client or 2) due to other causes not solely within the control of FNI.
9. Preparing data and reports for assistance to Client in preparation for hearings before regulatory agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.
10. Assisting Client in preparing for, or appearing at litigation, mediation, arbitration, dispute review boards, or other legal and/or administrative proceedings in the defense or prosecution of claims disputes with Contractor(s).
11. Assisting Client in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this Agreement. Such services, if any, shall be furnished by FNI on a fee basis negotiated by the respective parties outside of and in addition to this Agreement.
12. Design, contract modifications, studies or analysis required to comply with local, State, Federal or other regulatory agencies that become effective after the date of this agreement.
13. Services required to resolve bid protests or to rebid the projects for any reason.

14. Visits to the site in excess of the number of trips included in Article I for periodic site visits, coordination meetings, or contract completion activities.
15. Providing services made necessary because of unforeseen, concealed, or differing site conditions or due to the presence of hazardous substances in any form.
16. Providing Geotechnical field investigations.
17. Providing Landscape architectural services.
18. Cultural resource surveys including archeological surveys or historical documentations
19. Preparation of USACE including Section 404 Individual Permit or Letter of Permission.
20. Preparation of a mitigation plan.
21. Pre-qualification of all prospective bidders and issuing a list of eligible bidders prior to the bid opening is an additional service.

#### ARTICLE IV

**TIME OF COMPLETION:** FNI is authorized to commence work on the Project upon execution of this Agreement and agrees to complete the services in three months from Notice to Proceed in the original agreement.

If FNI's services are delayed through no fault of FNI, FNI shall be entitled to adjust the contract schedule consistent with the number of days of delay. These delays may include but are not limited to delays in Client or regulatory reviews, delays on the flow of information to be provided to FNI, governmental approvals, etc. These delays may result in an adjustment to compensation as outlined on the face of this Agreement and in Attachment CO.

#### ARTICLE V

**RESPONSIBILITIES OF CLIENT:** Client shall perform the following in a timely manner so as not to delay the services of FNI:

- A. Client recognizes and expects that change orders may be required to be issued during construction. The responsibility for the costs of change orders will be determined on the basis of applicable contractual obligations and professional liability standards. FNI will not be responsible for any change order costs due to unforeseen site conditions, changes made by or due to the Client or Contractor, or any change order costs not caused by the negligent errors or omissions of FNI. Nothing in this provision creates a presumption that, or changes the professional liability standard for determining if, FNI is liable for change order costs.
- B. Designate in writing a person to act as Client's representative with respect to the services to be rendered under this Agreement. Such person shall have contract authority to transmit instructions, receive information, interpret and define Client's policies and decisions with respect to FNI's services for the Project. Client's representative will serve as project manager and will coordinate all communications and direct actions for the team with the City's team and NCRS' staff.

- C. Provide all criteria and full information as to Client's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Client will require to be included in the drawings and specifications.
- D. Assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.
- E. Arrange for access to and make all provisions for FNI to enter upon public and private property as required for FNI to perform services under this Agreement.
- F. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by FNI, obtain advice of an attorney, insurance counselor and other consultants as Client deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay, or cause rework in, the services of FNI.
- G. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.
- H. Client shall make or arrange to have made all subsurface investigations, including but not limited to borings, test pits, soil resistivity surveys, and other subsurface explorations. Client shall also make or arrange to have made the interpretations of data and reports resulting from such investigations. All costs associated with such investigations shall be paid by Client.
- I. Client shall perform all the required hydrologic and hydraulic modeling for the project to provide hydrostatic and hydrodynamic loading for the bank stabilization design.
- J. Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as Client may require or FNI may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as Client may require to ascertain how or for what purpose any Contractor has used the moneys paid under the construction contract, and such inspection services as Client may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code or order applicable to their furnishing and performing the work.
- K. Attend the pre-bid conference, bid opening, preconstruction conferences, construction progress and other job-related meetings and substantial completion inspections and final payment inspections.
- L. Give prompt written notice to FNI whenever Client observes or otherwise becomes aware of any development that affects the scope or timing of FNI's services, or any defect or nonconformance of the work of any other Consultants and Contractor.
- M. Furnish, or direct FNI to provide, Additional Services as stipulated in Attachment SC, Article III of this Agreement or other services as required.
- N. Bear all costs incident to compliance with the requirements of this Article V.

ARTICLE VI

**DESIGNATED REPRESENTATIVES:** FNI and Client designate the following representatives:

Client's Designated Representative:	Dale Gray, P.E. P.O. Box 303130 7320 N Mopac Expy, Suite 203 Austin, Texas 78731 (512) 861-5300 <a href="mailto:dale.gray@miller-gray.com">dale.gray@miller-gray.com</a>
Owner's Accounting Representative:	Heidi Petmecky P.O. Box 303130 7320 N Mopac Expy, Suite 203 Austin, Texas 78731 (512) 861-5300 <a href="mailto:heidi.petmecky@miller-gray.com">heidi.petmecky@miller-gray.com</a>
FNI's Designated Representative:	Layne Bukhair, P.E. 10431 Morado Circle, Suite 300 Austin, Texas 78759 (512) 617-3184 <a href="mailto:LLB@freese.com">LLB@freese.com</a>
FNI's Accounting Representative:	Billy Metzger 10431 Morado Circle, Suite 300 Austin, Texas 78759 (512) 617-3101 <a href="mailto:Billy.Metzger@freese.com">Billy.Metzger@freese.com</a>

**COMPENSATION**

ATTACHMENT CO

Compensation to FNI for Basic Services in Attachment SC shall be the lump sum of Thirteen Thousand Fifty Four Dollars (\$13,054).

Compensation to FNI for Special Services in Attachment SC shall be computed on the basis of the following Schedule of Charges, but shall not exceed Thirty Thousand Five Hundred Thirty Two Dollars (\$30,532).

If FNI sees the Scope of Services changing so that Additional Services are needed, including but not limited to those services described as Additional Services in Attachment SC, FNI will notify OWNER for OWNER's approval before proceeding. Additional Services shall be computed based on the following Schedule of Charges.

<u>Position</u>	<u>Hourly Rate</u>
Professional 1	107
Professional 2	130
Professional 3	146
Professional 4	169
Professional 5	197
Professional 6	225
Construction Manager 1	85
Construction Manager 2	111
Construction Manager 3	131
Construction Manager 4	164
CAD Technician/Designer 1	91
CAD Technician/Designer 2	117
CAD Technician/Designer 3	145
Corporate Project Support 1	87
Corporate Project Support 2	105
Corporate Project Support 3	139
Intern / Coop	53
Senior Advisor	175

**Rates for In-House Services and Equipment**

<u>Mileage</u>	<u>Bulk Printing and Reproduction</u>			<u>Equipment</u>		
Standard IRS Rates		<u>B&amp;W</u>	<u>Color</u>	Valve Crew Vehicle (hour)		\$75
	Small Format (per copy)	\$0.10	\$0.25	Pressure Data Logger (each)		\$100
	Large Format (per sq. ft.)			Water Quality Meter (per day)		\$100
	Bond	\$0.25	\$0.75	Microscope (each)		\$150
	Glossy / Mylar	\$0.75	\$1.25	Pressure Recorder (per day)		\$200
	Vinyl / Adhesive	\$1.50	\$2.00	Ultrasonic Thickness Gauge (per day)		\$275
				Coating Inspection Kit (per day)		\$275
	Mounting (per sq. ft.)	\$2.00		Flushing / Cfactor (each)		\$500
	Binding (per binding)	\$0.25		Backpack Electrofisher (each)		\$1,000
					<u>Survey Grade</u>	<u>Standard</u>
				Drone (per day)	\$200	\$100
				GPS (per day)	\$150	\$50

**OTHER DIRECT EXPENSES:**

Other direct expenses are reimbursed at actual cost times a multiplier of 1.15. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office. For other miscellaneous expenses directly related to the work, including costs of laboratory analysis, test, and other work required to be done by independent persons other than staff members, these services will be billed at a cost times a multiplier of 1.15. For Resident Representative services performed by non-FNI employees and CAD services performed In-house by non-FNI employees where FNI provides workspace and equipment to perform such services, these services will be billed at cost times a multiplier of 2.0. This markup approximates the cost to FNI if an FNI employee was performing the same or similar services.

**These ranges and/or rates will be adjusted annually in February. Last updated February 2019.**

1022019

<b>Miller-Gray</b>		<b>Project Fee Summary</b>	
<b>Marble Falls Bank Stabilization</b>		<b>Basic Services</b>	\$ 13,054
6/4/2020		<b>Special Services</b>	\$ 30,532
<b>Detailed Cost Breakdown</b>		<b>Total Project</b>	\$ 43,586

Phase	Task	Basic or Special	Task Description	Labor										Total Hours			
				Victor Vasquez	Layne Bulthair	Hande Genkus Harris	Ivonne White	Mathew Moses	Jake Donaho	Trey Hunter	Professional 6	Professional 4	Professional 3		Professional 3		
1			Project Management	PIC	PM	Lead Geotech	Geotech	Senior Struct.	Structural	Structural	Designer 2						8
2			Design Phase (ALT 1 & ALT 3)														
			ALT 1														
			Sheet pile Design	1	2	2			8								13
			ALT 3														
			Global Stability	2	1	8											11
			Shallow Stability	2	1	4											7
			Perform Structural engineering Analysis		2			2	8								12
3			Construction Documents (ALT 1 & ALT 3)														
			Prepare 80% Structural Drawing		2				8								26
			80% Review Civil drawings and Conference Call		1	1			2								4
			Prepare IFB Drawing		1				2								9
4			Design Phase (ALT 4)														
		Special	ALT 4														
		Special	Geotech Engineering														
		Special	Global Stability	2	2	24			4								32
		Special	Shallow Stability	2	2	8			4								16
		Special	Sheet Pile Stability	2	2	8											12
		Special	Secondary Wall Stability		8	16											26
		Special	Structural Engineering Analysis														
		Special	Sheet pile	1	6	6		4									37
		Special	Secondary Wall Design		8	4											28
5			Construction Documents (ALT 4)														
		Special	Provide Concept Figures		1	2											9
		Special	Prepare 80% Structural Drawing		2				10								32
		Special	80% Review Civil drawings and Conference Call		2	1											3
		Special	Prepare IFB Drawing		2	2			6								14
<b>Total Hours / Quantity</b>				<b>13</b>	<b>51</b>	<b>87</b>	<b>8</b>	<b>6</b>	<b>88</b>	<b>46</b>	<b>299</b>						

**July 7, 2020**

**7. REGULAR AGENDA**

- (d) Discussion and Action on Ordinance 2020-O-03D regarding zoning text amendments to City of Marble Falls Code of Ordinances, Chapter 20, Signs, Section 20-3, Definitions, and Section 20-10, Temporary Signs; and Appendix B, Development Code, Article 3, Land Use, Article 4, General Development Regulations; Article 6, Subdivision Design and Land Development; Article 8, Parking, Loading, Stacking, and Lighting; Article 9, Trees, Landscaping, and Buffering; and Article 14, Definitions and Interpretations. *Valerie Kreger, Director of Development Services*
-



**Council Agenda Item Cover Memo**  
**July 7, 2020**

**Agenda Item No.:** 7(d)  
**Presenter:** Valerie Kreger, Director of Development Services  
**Department:** Development Services  
**Legal Review:**

**AGENDA CAPTION**

Discussion and Action on Ordinance 2020-O-03D regarding zoning text amendments to City of Marble Falls Code of Ordinances, Chapter 20, Signs, Section 20-3, Definitions, and Section 20-10, Temporary Signs; and Appendix B, Development Code, Article 3, Land Use, Article 4, General Development Regulations; and Article 14, Definitions and Interpretations.

**BACKGROUND INFORMATION**

This item was continued from the March 17, 2020, City Council meeting and is for consideration of proposed amendments to the City Code sign regulations and to various sections of the Development Code.

The Development Code was adopted in October of 2018 and went into effect on January 1 of 2019. At time of adoption, it was understood and encouraged that staff acknowledge any issues that may be discovered once the document was in use and be prepared to bring amendments back to City Council as soon as possible rather than waiting a specific time period. Staff has discovered not only mistakes or unintended consequences as expected, but also various items that were not considered or not considered in the contexts that have arisen.

A summary of the proposed amendments is listed below and the redline of the code edits is attached for review.

**Chapter 20, Signs**

- Clarified development sign in definitions and temporary signage
- Added human signs to definitions and temporary signage
- Addressed feather flags in downtown

**Article 3, Land Uses**

- Added tiny house development to TR with approval of Conditional Use Permit
- Added duplex to NC with approval of a Conditional Use Permit
- Added townhouse to NC up to 14 units per acre with approval of a Conditional Use Permit

- Added apartment to NC up to 20 units per acre with approval of a Conditional Use Permit
- Corrected live-work restrictions
- Added social service institution to restricted and conditional use standards chart
- Revised recreational vehicle (RV) park restricted and conditional use standards
- Corrected self-storage in restricted and conditional use standards chart

#### **Article 4, General Development Regulations**

- Re-added restriction of age of structure moved into the city limits.
- Added standards for tiny house development in the TR district.
- Made correction to add townhouse development to the downtown and downtown transition districts in the tables.
- Adjusted minimum lot width requirements and street side setbacks for neighborhood single-family detached and single-family zero lot line development options in the NR district.
- Made correction to add the ENZ.1 district to the area exception for one-story detached ADUs.
- Clarified front yard setback for fences is the building line, removed required 10' setback for street side yards, and clarified double frontage requirements.

#### **Article 14, Definitions and Interpretations**

- Clarified cottage definition.
- Clarified multifamily definition.
- Clarified recreational vehicle park (RV park) definition
- Clarified townhouse definition

The Planning and Zoning Commission considered the amendments at their March 5<sup>th</sup> meeting. They recommended unanimous approval subject to the following changes:

1. Add minimum setback for feather flags from roadway to provide for sight distance;
2. Add tiny house development to the ENZ.3 and ENZ.4 districts;
3. Regarding outdoor storage at RV parks, account for barbeque pit type cooking facilities;
4. Clarify no structure older than 5 years shall be moved into or within the city limits and provide for consideration by P&Z to allow; and
5. Clarify that the townhouse product is on individual lots only.

Staff has made the Planning and Zoning Commission's recommended changes and they are reflected in the redline attachment to this memo.

The City Council held a public hearing and discussed the amendments at their March 17, 2020, meeting. The Council voted to postpone action to allow for additional discussion regarding feather flags, human signs and recreational vehicle parks. Questions that arose included visibility of feather flags and human signs downtown and concern regarding permanent residences in RV parks. Since the meeting, staff has drafted optional language to discuss that could replace feather flags downtown with downtown banner flags attached to buildings and has added optional language to the

RV regulations. A separate agenda item follows regarding potential permitting for longer stays in RV parks. Additional language for consideration is shown in blue.

Additionally, staff has discussed the minimum residential lot width requirements with a developer, and they have requested that the minimum lot width be reduced to forty feet with not restrictions as to average lot size.

**RECOMMENDATION**

The Planning and Zoning Commission unanimously (7-0) recommended approval of the proposed amendments to the Marble Falls Code of Ordinances Chapter 20, Sign Regulations, and Appendix B, Development Code, subject to the following changes:

1. Add minimum setback for feather flags from roadway to provide for sight distance;
2. Add tiny house development to the ENZ.3 and ENZ.4 districts;
3. Regarding outdoor storage at RV parks, account for barbeque pit type cooking facilities;
4. Clarify no structure older than 5 years shall be moved into or within the city limits and provide for consideration by P&Z to allow;
5. Clarify that the townhouse product is on individual lots only.

**Memo Contents:**

- Redlined Text of Proposed Amendments Pages 4-13
- Ordinance 2020-O-03D Pages 14-22

## Chapter 20 - SIGNS

### Sec. 20-3. - Definitions.

*Development sign* means signs **announcing a new development and/or** giving the name or names of principal contractors, architects and lending institutions responsible for construction of **a** ~~or~~ ~~in an approved~~ subdivision or land development at the site where the sign is placed.

**Downtown Banner Flag** means a temporary attached sign type, that consists of an unframed fabric flag designed to move with the wind and suspended from a horizontal or semi horizontal pole or rod attached to and projecting from the side of a building facade.

**Human sign** means a sign that is worn (including costumes) or held by a human for commercial advertising or promotion purposes.

### Sec. 20-10. - Temporary signs.

#### A. Attached temporary signs.

##### **9. Downtown Banner Flags.**

**a. Purpose. To allow businesses in the Downtown (DN) district the opportunity to temporarily advertise special events or functions, such as but not limited to: opening soon, closing soon, business relocation, specials, sales, promotions, fundraisers, community events, etc.**

##### **b. Allocation.**

**i. No more than one (1) downtown banner flag is allowed per building street frontage at the same time.**

**ii. A downtown banner flag permit is valid for a period of six (6) months.**

**iii. Upon expiration of the permit, a minimum of thirty (30) days shall pass before permitting another banner flag, so the instance of a perpetual banner flag does not occur.**

**c. Maximum size. Downtown banner flags may be no larger than twelve (12) inches wide and forty-two (42) inches long.**

##### **d. Placement requirements.**

**i. Downtown banner flags shall only be located in the Downtown (DN) district on buildings in which the business, organization, or event for which they advertise is located.**

**ii. Downtown banner flags must be located within six (6) feet of the entry door leading to the business, organization, or event for which they advertise.**

**iii. Downtown banner flags may not project further than twenty (20) inches from the building.**

**iv. Any downtown banner flags overhanging pedestrian access routes or paths must have a head clearance minimum of eight (8) feet.**

**v. Downtown banner flags may not extend above the roof or parapet of the building.**

- vi. Downtown banner flags may project into the right-of-way, but not into the vehicle way.
- vii. Downtown banner flags shall not create a traffic circulation disturbance or a vision obstruction to neighboring signs or traffic accessibility.
- viii. Downtown banner flags shall not block pedestrian paths, entrances or exits to buildings.
- e. Design. A downtown banner flag must be constructed of nylon, canvas, vinyl, or an equally weather resistant material. Paper, cardboard, similar material or non-weather resistant material is prohibited. All letters and numbers must be typeset.
- f. Lighting. The lighting of downtown banner flags is prohibited.
- g. Maintenance. Downtown banner flags must be maintained in good condition with no tears, frayed edges, or discoloration. Visible damage, wear and tear, or weathering is prohibited and will result in the sign permit being revoked or denied.

B. Detached temporary signs.

4. *Feather flag signs (tear drop banners).*

- c. Location requirements. Feather flag signs shall be located within the premises of the business, organization, or event for which they advertise. Feather flag signs shall not create a traffic circulation disturbance or a vision obstruction to neighboring signs or traffic accessibility. Feather flag signs shall not block pedestrian paths (sidewalks), entrances or exits to buildings. Feather flag signs are prohibited from utilization in residential zoning districts, such as NR, TR, DR, ENZ.2, ENZ.3, or other PDD district equivalents and are prohibited on properties zoned Downtown (DN) District that are located west of US 281 and that do not front on US 281.
- d. Setback requirements. None. Feather flag signs may be placed on the property line provided they are set back at least three (3) feet from a public sidewalk and ten (10) feet from a roadway and that all other provisions of this section are met.

8. Human signs.

- a. Maximum size. Six (6) square feet.
- b. Allocation. One (1) human sign per property for a maximum period of two (2) weeks or fourteen (14) days per every six (6) month period.
- c. Location requirements. Human signs are prohibited in the right-of-way. Human signs may be permitted anywhere on the premises of the private property on which the business being advertised is located provided they do not create a hazard or impede vehicle, bicycle or pedestrian circulation and do not interfere with required visibility triangles.

**d. Design. Human signs shall not utilize any type of illumination, animation, flashing, blinking, rotating light, fluorescent colors, or mirrors, and may not generate any noise that would disrupt or endanger pedestrians or motorists.**

- E. *Development sign.* Signs announcing or describing a ~~legally approved~~ subdivision or land development may be temporarily erected until **construction of** the subdivision **or development** is completed. Such signs shall not exceed one hundred (100) square feet in area and may be indirectly lighted. An annual permit is required.

# Article 3, Land Use

## DIVISION 3.1 LAND USES BY ZONING DISTRICT

### Section 3.1.3 Residential and Neighborhood Uses

Table 3.1.3 Residential and Neighborhood Uses by Zoning District																		
Land Use	ZONING DISTRICTS																Reference to Supplemental Use Standards	
	P=Permitted R=Restricted E=Existing C=Conditional MP=Master Planned Community ---=Prohibited																	
	Ag	Residential					ENZ Subdistrict					Nonresidential						
	FR	RE	NR	TR	DR	MR	ENZ. 1	ENZ. 2	ENZ. 3	ENZ. 4	ENZ. 5	NC	GC	DN	DT	BP	IN	
Cottage	--	--	MP	P	P	MP	--	--	--	--	--	--	--	--	--	--	--	N/A
Single-Family Detached	P	P	P	P	P	MP	P	P	P	P	P	C	--	--	--	--	--	Table 3.2.1.B
Single-Family Attached	--	--	MP	P	P	MP	--	C	P	P	P	--	--	--	--	--	--	
Single-Family Zero Lot Line	--	--	R	R	R	MP	--	R	R	R	R	--	--	--	--	--	--	
Industrialized Housing	R	R	R	R	R	MP	R	R	R	R	R	--	--	--	--	--	--	
Manufactured Home	R	--	C	--	--	C	--	--	--	--	P	--	--	--	--	--	--	
Manufactured Home Park	C	--	C	--	--	C	--	--	--	--	R	--	--	--	--	--	--	
Tiny House Development	C	--	C	<del>C</del>	C	C	--	--	<del>C</del>	<del>C</del>	R	--	--	--	--	--	--	
Duplex	--	--	MP	P	P	MP	--	C	P	P	P	<del>C</del>	--	--	--	--	--	
Townhouse	--	--	MP	P	P	P	--	--	P	P	--	<del>C</del>	--	R	R	--	--	
Triplex	--	--	MP	P	C	P	--	--	P	P	--	--	--	--	--	--	--	
Quadplex	--	--	MP	P	C	P	--	--	P	P	--	--	--	--	--	--	--	
Apartment	--	--	--	<del>C</del> MP	C	P	--	--	--	P	--	C	--	R	R	--	--	
Live-Work Unit	--	--	--	--	--	--	--	--	--	--	--	P	--	R	R	--	--	
Loft Apartment	--	--	MP	MP	--	MP	--	--	--	--	--	C	--	P	P	--	--	
Group Home	R	R	R	R	R	R	R	R	R	R	R	C	C	--	C	--	--	

## DIVISION 3.2 SUPPLEMENTAL USE REGULATIONS

### Section 3.2.1 Restricted and Conditional Uses

Table 3.2.1.B Residential and Neighborhood Restricted and Conditional Use Standards			
Land Use	District	Development Standards	Operational/Other Standards
Tiny House Development	FR NR <del>TR</del> <del>DR</del> MR <del>ENZ.3</del> <del>ENZ.4</del> ENZ.5	Tiny House Developments are subject to the requirements of Section 4.2.4, <i>Tiny House Development</i> . Tiny House Developments in the FR, NR, <del>TR</del> , <del>DR</del> , MR, <del>ENZ.3</del> , and <del>ENZ.4</del> districts are also subject to approval of a Conditional Use Permit.	All tiny houses shall be connected to utilities as set out in Subsection 4.2.4.C.6, <i>Utilities</i> and Subsection 4.2.4.C.7, <i>Solid Waste Disposal</i> , and shall comply with minimum building standards as set out in Subsection 4.2.4.B, <i>Tiny House Building Unit Standards</i> .
	Duplex	ENZ.2	There are no specific restrictions applicable to the Conditional Use Permit requirement.
<del>NC</del>		<del>There are no specific restrictions applicable to the Conditional Use Permit requirement.</del>	
Townhouse	DN DT	Buildings must be designed to create an urban character with pedestrian interface. Entrances are required to face the street and must include a porch or stoop. Required parking must be accessed via an alley.	N/A
	<del>NC</del>	<del>Limited to a maximum of 14 units per acre.</del>	<del>N/A</del>

**Table 3.2.1.B Residential and Neighborhood Restricted and Conditional Use Standards**

Land Use	District	Development Standards	Operational/Other Standards
Apartment	DR	Limited to a maximum of 20 units per acre.	N/A
	<b>TR</b>	<b>Limited to a maximum of 14 units per acre.</b>	
	NC	Limited to a maximum of 14 units per acre.	
	DN DT	Limited to a maximum of 44 units per acre. Buildings must be designed to create an urban character, required parking is accessed via an alley and accommodated in a parking structure or a parking lot which uses the building to screen it from the public right-of-way. In the DN district, the first floor of the building shall be dedicated to nonresidential uses permitted within the district. No apartment units shall be located on the first floor in the DN District.	
Live-work unit	DN DT	Live-work units must be designed with a residential external appearance in the form of a townhouse. Customer parking must be provided on street, in a parking structure, or via alley access. The area devoted to <del>work</del> <b>the residence</b> cannot exceed 50 percent of the total floor area.	N/A

**Table 3.2.1.C Civic Restricted and Conditional Use Standards**

Land Use	District	Development Standards	Operational and Other Standards
<u>Social Service Institution</u>	<b>DR</b> <b>GC</b> <b>DN</b> <b>DT</b> <b>BP</b>	<b><u>There are no specific restrictions applicable to the Conditional Use Permit requirement.</u></b>	

**Table 3.2.1.D Commercial Restricted and Conditional Use Standards**

Land Use	District	Development Standards	Operational/Other Standards
Recreational Vehicle (RV) Park	FR MR ENZ.5	<p>Recreational vehicles shall only be located within an RV Park subject to approval of a Conditional Use Permit and in accordance with the following:</p> <ul style="list-style-type: none"> <li>• An RV park shall be planned cohesively through a Site Development Plan.</li> <li>• All RV parks shall take access from an arterial or collector street with a driveway width of at least <del>32</del> <b>30</b> feet.</li> <li>• A single recreational vehicle is allowed per space.</li> <li>• RVs shall be placed on a permanent parking pad at least 10 feet in width and 24 feet in depth constructed of concrete, asphalt, or similar material approved by the City Engineer.</li> <li>• Each RV space shall have adequate frontage width on an access drive to allow for loading/unloading maneuvering space.</li> <li>• RV parks may include sanitary facilities, <b>park facility</b> storage buildings, and/or management offices.</li> <li>• Common area amenities shall be required based on the number of units allotted per the Site Development Plan.</li> <li>• All spaces shall provide connections to potable water, <del>sanitary sewer,</del> and electrical power.</li> <li>• The RV park shall provide a centralized solid waste collection facility.</li> <li>• A permanent marker identifying the space number is required to be clearly visible day and night for emergency vehicles.</li> <li>• <b><u>The RV Park Facility shall not provide or be used as the permanent address for any units and mailboxes shall not be provided for units.</u></b></li> <li>• <b><u>Individual units/spaces shall not have accessory structures including, but not limited to, sheds and carports.</u></b></li> <li>• <b><u>Outside storage at individual units/spaces is not allowed, except for a barbeque pit or similar outdoor cooking apparatus.</u></b></li> <li>• <b><u>Individual RV units/spaces shall not have permanent decks and/or porches.</u></b></li> <li>• <b><u>Individual RV units/spaces shall not have fencing.</u></b></li> </ul>	N/A

**Table 3.2.1.E Industrial Restricted and Conditional Use Standards**

Land Use	District	Development Standards	Operational/Other Standards
Self-Storage	GC	When located adjacent to a major arterial level street, the facility shall be set back at least 150 feet from the right-of-way. <del>Additionally, unit doors shall not be visible from public rights-of-way nor residentially zoned or used properties. Outdoor storage areas shall be completely screened from view from the street by a wall or fence at least eight feet in height.</del>	The use will be conducted entirely within an enclosed building. All units shall be accessed from an interior hallway and not contain an interior electrical outlet. Self-storage units shall be used solely for the purpose of storage and shall not be used for conducting or operating a business.
	IN	<u>When located adjacent to a major arterial level street, the facility shall be set back at least 150 feet from the right-of-way. Additionally, unit doors shall not be visible from public rights-of-way nor residentially zoned or used properties. Outdoor storage areas shall be completely screened from view from the street by a wall or fence at least eight feet in height.</u>	Outdoor storage areas shall comply with Section 4.6.5, <i>Outdoor Storage and Display of Merchandise</i> . <u>Self-storage units shall be used solely for the purpose of storage and shall not be used for conducting or operating a business.</u>

## Article 4, General Development Regulations

### DIVISION 4.1 GENERAL USE PROVISIONS

#### Section 4.1.1 Use of Land and Water, Generally

C. Restriction of age of structure moved into or within the city limits. No structure more than five (5) years of age may be moved into the city limits or moved between any properties within the city limits without specific approval from the Planning and Zoning Commission. Structures for which the principal use is primary or secondary educational facilities shall be exempt from this provision.

### DIVISION 4.2 NEW RESIDENTIAL DEVELOPMENT DESIGN

**Table 4.2.1 Development Options and Yield for New Residential Development**

Development Option	Min. Area of Development	Min. Lot Size/ Area Per Dwelling Unit	Max. Gross Density per Acre	Min. Open Space Area	Min. Dwelling Unit Size
<b>Transitional Residential (TR) District</b>					
<u>Tiny House Development<sup>2,4</sup></u>	<u>5.0 ac.</u>	<u>3,600 sf</u>	<u>5.25</u>	<u>40%</u>	<u>140 sf<sup>7</sup></u>
Triplex <sup>4</sup>	10,500 sf	10,500 sf	12.00	25%	N/A
Quadplex <sup>4</sup>	14,500 sf	14,500 sf	12.00	25%	N/A
<b>Downtown (DN) and Downtown Transition (DT) Districts</b>					
<u>Townhouse (Rear-Loaded)<sup>9</sup></u>	<u>42,000 sf</u>	<u>2,000 sf</u>	<u>20.00</u>	<u>N/A</u>	<u>N/A</u>
Apartment <sup>6</sup>	N/A	N/A	<del>40</del> <u>44</u> .00	N/A	N/A
Loft Apartment <sup>6</sup>	N/A	N/A	<del>40</del> <u>44</u> .00	N/A	N/A

**Table Notes:**

<sup>2</sup> Tiny House Developments must also comply with the standards of Section 4.2.4, *Tiny House Development*.

<sup>4</sup> Allowed only with approval of a Conditional Use Permit as set out in Section 3.2.1, *Restricted and Conditional Uses*, and 11.3.4, *Conditional Use Permits*.

<sup>6</sup> Apartments and lofts are subject to the standards set out in Section 4.3.1, *Nonresidential and Mixed-Use Lot and Building Standards*, Section 4.3.2, *Nonresidential, Mixed-Use and Apartment Design Standards*, and Section 4.3.4, *Special Design Standards for Downtown (DN) and Downtown Transition (DT) Districts*, as may be applicable.

<sup>7</sup> Maximum Tiny House size is 599 square feet.

<sup>9</sup>Townhouses in the Downtown (DN) and Downtown Transition (DT) Districts are subject to the standards set out in Section 4.3.4, *Special Design Standards for Downtown (DN) and Downtown Transition (DT) Districts*.

**Table 4.2.2 Lot and Building Standards for New Residential Development**

Development Option	Min. Lot Size/ Area Per Unit	Min. Lot Width	Min. Lot Frontage	Min. Setbacks					Max. Height Building/ Structure	Max. Lot Coverage
				Front	Interior Side	Street Side	Rear	Garage		
<b>Neighborhood Residential (NR) District</b>										
Neighborhood (Single-Family Detached)	5,000 sf	50' <sup>1</sup> 45' <sup>12</sup> / 60' <sup>4</sup> 55' <sup>1</sup>	20'	25'	5'	15' <sup>10</sup>	15'	25'/ 7.5' <sup>2</sup>	35'	50%
Neighborhood (Rear-Loaded) (Single-Family Detached) <sup>3</sup>	4,200 sf	42' <sup>3</sup> 38' <sup>1</sup> / 52' <sup>4</sup> 48' <sup>1</sup>	20'	15'	5'	15' <sup>10</sup>	15'	7.5' <sup>2</sup>	35'	60%
Single-Family Zero Lot Line <sup>10</sup>	5,000 sf	50' <sup>1</sup> 45' <sup>12</sup> / 65' <sup>4</sup> 60' <sup>1</sup>	20'	25'	0'/10' <sup>11</sup>	15' <sup>10</sup>	15'	25'/ 7.5' <sup>2</sup>	35'	50%
<b>Transitional Residential (TR) District</b>										
<b>Tiny House Development<sup>6,8</sup></b>	<b>3,600 sf</b>	<b>40'</b>	<b>20'</b>	<b>15'</b>	<b>5'</b>	<b>10'</b>	<b>15'</b>	<b>N/A</b>	<b>25'</b>	<b>50%</b>
Triplex <sup>8</sup>	12,000	50'	50'	25'	10'	15'	15'	25'	40'	70%
Quadplex <sup>8</sup>	14,500	50'	50'	25'	10'	15'	15'	25'	40'	70%
Apartment <sup>8,9</sup>	N/A	60'	60'	25'	15'	20'	15'	N/A	40'	70%
<b>Downtown (DN) and Downtown Transition (DT) Districts</b>										
<b>Townhouse (Rear-Loaded)<sup>3,13</sup></b>	<b>2,000 sf</b>	<b>20'</b>	<b>20'</b>	<b>0'/10'<sup>14</sup></b>	<b>5'/0'<sup>4</sup></b>	<b>10'</b>	<b>15'</b>	<b>7.5'<sup>2</sup></b>	<b>60'</b>	<b>70%</b>
<b>Table Notes:</b>										
<sup>1</sup> The second number is the lot width for corner lots.										
<sup>2</sup> The second number is the garage setback for lots taking direct access from a rear alley.										
<sup>3</sup> Rear-loaded means that parking must be located at the rear of the site and access must be taken from an alleyway at the rear of the property. Does not require an enclosed or covered garage.										
<sup>6</sup> Tiny House Developments must also comply with the standards of Section 4.2.4, <i>Tiny House Development</i> .										
<sup>7</sup> Allowed only in conjunction with a Master Planned Community.										
<sup>8</sup> Allowed only with approval of a Conditional Use Permit.										
<sup>9</sup> Apartments and lofts are subject to the standards set out in Section 4.3.1, <i>Nonresidential and Mixed-Use Lot and Building Standards</i> , Section 4.3.2, <i>Nonresidential, Mixed-Use and Apartment Design Standards</i> , and Section 4.3.4, <i>Special Design Standards for Downtown (DN) and Downtown Transition (DT) Districts</i> , as may be applicable.										
<sup>10</sup> Single-Family Zero Lot Line developments must also comply with the standards of Subsection 4.2.10, <i>Single-Family Zero Lot Line Development</i> .										
<sup>11</sup> For Single-Family Zero Lot Line development, one interior side lot line minimum setback may be 0' and the opposite interior side lot line must be a minimum of 10' in conformance with the approved subdivision plat for the development.										
<sup>12</sup> <b>Lot widths within a development of at least 20 homes may be reduced to 40 feet provided the average lot width within the development is at least 45 feet.</b>										
<sup>13</sup> <b>Townhouses in the Downtown (DN) and Downtown Transition (DT) Districts are subject to the standards set out in Section 4.3.4, <i>Special Design Standards for Downtown (DN) and Downtown Transition (DT) Districts</i>.</b>										
<sup>14</sup> <b>Townhouses in the Downtown (DN) District are required to be built-to the front property line and townhouses in the Downtown Transition (DT) District are required to be built within ten (10) feet of the front property line.</b>										

**Table 4.2.6.A Downtown Residential Lot and Building Standards**

Land Use	Min. Lot Width	Min. Lot Size/ Area per Unit	Max. Lot Coverage	Min. Setbacks					Max. Building/ Structure Height	Minimum Dwelling Unit Size
				Front	Interior Side	Street Side	Rear	Garage Access		
Cottage	30'	4,200 sf	60%	10'	5'	7.5'	15'	7.5' <sup>5</sup>	25'	600 sf <sup>8</sup>
	40' <sup>11</sup>	5,600 sf	60%	10'	5'	10'	15'	15' <sup>12</sup>	25'	600 sf <sup>8</sup>
	50'	7,000 sf	60%	15'	5'	10'	15'	15' <sup>12</sup>	35'	600 sf <sup>8</sup>
Single-Family Detached	30' <sup>1</sup>	4,200 sf	60%	15'	5'	7.5'	15'	7.5' <sup>5</sup>	35'	900 sf
	40' <sup>11</sup>	5,600 sf	60%	15'	5'	7.5'	15'	15' <sup>12</sup>	35'	900 sf
	50'	7,000 sf	60%	15'	5'	10'	15'	15' <sup>12</sup>	35'	900 sf
Single-Family Zero Lot Line <sup>9</sup>	30' <sup>1</sup>	4,200 sf	60%	15'	0'/10' <sup>10</sup>	7.5'	15'	7.5' <sup>5</sup>	35'	900 sf
	40' <sup>11</sup>	5,600 sf	60%	15'	0'/10' <sup>10</sup>	7.5'	15'	15' <sup>12</sup>	35'	900 sf
	50'	7,000 sf	60%	15'	0'/10' <sup>10</sup>	10'	15'	15' <sup>12</sup>	35'	900 sf

**Table 4.2.6.A Downtown Residential Lot and Building Standards**

Land Use	Min. Lot Width	Min. Lot Size/ Area per Unit	Max. Lot Coverage	Min. Setbacks					Max. Building/ Structure Height	Minimum Dwelling Unit Size
				Front	Interior Side	Street Side	Rear	Garage Access		
Single-Family Attached	30 <sup>1</sup>	4,200 sf	60%	15'	0' <sup>4</sup> / 5'	7.5'	15'	7.5' <sup>5</sup>	35'	800 sf
	40' <sup>11</sup>	5,600 sf	60%	15'	5'	7.5'	15'	15' <sup>12</sup>	35'	900 sf
	50'	7,000 sf	60%	15'	0' <sup>4</sup> / 5'	10'	15'	15' <sup>12</sup>	35'	900 sf
Duplex	50'	7,000 sf	60%	15'	5'	10'	15'	15' <sup>12</sup>	35'	800 sf
Townhouse	22' <sup>2</sup> / 32' <sup>3</sup>	2,400 sf	60%	5'	0' <sup>4</sup> / 5'	10'	15'	7.5' <sup>5</sup>	35'	N/A
<b><u>Tiny House Development<sup>6,14</sup></u></b>	<b><u>40'</u></b>	<b><u>3,600 sf</u></b>	<b><u>60%</u></b>	<b><u>15'</u></b>	<b><u>5'</u></b>	<b><u>10'</u></b>	<b><u>15'</u></b>	<b><u>N/A</u></b>	<b><u>25'</u></b>	<b><u>140 sf<sup>15</sup></u></b>
Triplex <sup>6</sup>	50'	7,000 sf	60%	15'	10'	10'	15'	7.5' <sup>13</sup>	40'	N/A
Quadplex <sup>6</sup>	50'	7,000 sf	60%	15'	10'	10'	15'	7.5' <sup>13</sup>	40'	N/A
Apartment <sup>6,7</sup>	100'	14,000 sf	70%	25'	10'	15'	15'	7.5' <sup>13</sup>	40'	N/A

**Table Notes:**

<sup>1</sup> Single-Family Detached, Single-Family Zero Lot Line or Single-Family Attached development on 30-foot lots is only allowed on 30-foot lots that existed on the effective date of these regulations.

<sup>2</sup> New Townhouse Development on a minimum of 22 foot lots is only allowed as rear-loaded units as set out in Table 4.2.6.C, *Downtown Residential Illustrative Lot Configurations*.

<sup>3</sup> The second number is the lot width for corner lots.

<sup>4</sup> The first number is the side setback for the side attached to an adjacent unit.

<sup>5</sup> Garage access must be taken from a rear alley.

<sup>6</sup> Allowed only with approval of a Conditional Use Permit as set out in Section 11.3.4, *Conditional Use Permits*.

<sup>7</sup> Apartments are subject to the standards set out in Section 4.3.1, *Nonresidential and Mixed-Use Lot and Building Standards*, and Section 4.3.2, *Nonresidential, Mixed-Use and Apartment Design Standards*, as may be applicable.

<sup>8</sup> Maximum Cottage unit size is 899 square feet.

<sup>9</sup> Single-Family Zero Lot Line developments must also comply with the standards of Subsection 4.2.10, *Single-Family Zero Lot Line Development*.

<sup>10</sup> For Single-Family Zero Lot Line development, one interior side lot line minimum setback may be 0' and the opposite interior side lot line must be a minimum of 10' in conformance with the approved subdivision plat for the development.

<sup>11</sup> Corner lots must be at least 50' wide.

<sup>12</sup> Garage access may be reduced to 7.5' when accessed from an alley.

<sup>13</sup> Triplex, Quadplex, and Apartment parking, including garages, must be directly accessed from within the site, not the street, except that when an alley is present, direct access may be taken from the alley.

<sup>14</sup> **Tiny House Developments must also comply with the standards of Section 4.2.4, *Tiny House Development*.**

<sup>15</sup> **Maximum Tiny House size is 599 square feet.**

**Table 4.2.7.A Existing Neighborhood Zones General Lot and Building Standards**

ENZ Sub-district	Development Type	Min. Lot Width	Lot Area & Coverage		Min. Setbacks				Max. Building/ Structure Height	Min. Dwelling Unit Size
			Minimum Area per Lot / Unit	Max. Lot Coverage	Front	Interior Side	Street Side	Rear		
ENZ.1	N/A	100'	1 ac.	30%	50'	15'	25'	25'	35'	1,500 sf
ENZ.2	Single-Family Detached, Single-Family Zero Lot Line <sup>6</sup> , Single-Family Attached <sup>2</sup> , Duplex <sup>5</sup>	50'	6,000 sf	50%	25'	5' <sup>7</sup>	15'	10'	35'	900 sf

Table 4.2.7.A Existing Neighborhood Zones General Lot and Building Standards										
ENZ Sub-district	Development Type	Min. Lot Width	Lot Area & Coverage		Min. Setbacks				Max. Building/ Structure Height	Min. Dwelling Unit Size
			Minimum Area per Lot / Unit	Max. Lot Coverage	Front	Interior Side	Street Side	Rear		
ENZ.3	Single-Family Detached, Single-Family Zero Lot Line <sup>6</sup> , Single-Family Attached, Duplex	50'	6,000 sf	75%	25'	5' <sup>2,7</sup> /0'	15'	10'	35'	900 sf
	Townhouse	20'	2,400 sf	75%	20'/ 15' <sup>1</sup>	5' <sup>2</sup> / 0'	15'	5'	35'	800 sf
	<b><u>Tiny House Development<sup>6,14</sup></u></b>	<b><u>50'</u></b>	<b><u>6,000 sf</u></b>	<b><u>60%</u></b>	<b><u>25'</u></b>	<b><u>5'</u></b>	<b><u>15'</u></b>	<b><u>15'</u></b>	<b><u>25'</u></b>	<b><u>140 sf<sup>15</sup></u></b>
	Tri-plex, Quadplex	50'	6,000 sf	75%	25'	5'	15'	15'	35'	600 sf
ENZ.4	Single-Family Detached, Single-Family Zero Lot Line <sup>6</sup> , Single-Family Attached, Duplex	50'	6,000 sf	75%	25'	5' <sup>2,7</sup>	15'	15'	35'	800 sf
	Townhouse	20'	2,600 sf	75%	25'/ 20' <sup>1</sup>	10' <sup>2</sup> / 0'	15'	5'	35'	800 sf
	<b><u>Tiny House Development<sup>6,14</sup></u></b>	<b><u>50'</u></b>	<b><u>6,000 sf</u></b>	<b><u>60%</u></b>	<b><u>25'</u></b>	<b><u>5'</u></b>	<b><u>15'</u></b>	<b><u>15'</u></b>	<b><u>25'</u></b>	<b><u>140 sf<sup>15</sup></u></b>
	Tri-plex, Quadplex, Apartment <sup>4</sup>	100'	12,000 sf	75%	25'	10'	15'	15'	50'/ 35' <sup>3</sup>	600 sf
ENZ.5	Manufactured Home, Single-Family Detached, Single-Family Attached, Duplex	50'	5,000 sf	60%	25'	5'	15'	15'	25'	600 sf
	<b><u>Tiny House Development<sup>5,8</sup></u></b>	<b><u>50'</u></b>	<b><u>5,000 sf</u></b>	<b><u>60%</u></b>	<b><u>25'</u></b>	<b><u>5'</u></b>	<b><u>15'</u></b>	<b><u>15'</u></b>	<b><u>25'</u></b>	<b><u>140 sf<sup>9</sup></u></b>

**Table Notes:**

<sup>1</sup> When the garage faces onto the street, the setback for the garage and the second story shall increase to 25 feet.

<sup>2</sup> For single-family attached units and townhouses, there is a zero-foot interior setback between attached units, but minimum 10-foot separation between buildings.

<sup>3</sup> Maximum height shall be limited to 35 feet on any portion of a site within 100 feet of property zoned ENZ.2, Downtown Residential (DR), or Neighborhood Residential (NR).

<sup>4</sup> Apartments are subject to the standards set out in Section 4.3.1, *Nonresidential and Mixed-Use Lot and Building Standards* and Section 4.3.2, *Nonresidential, Mixed-Use and Apartment Design Standards*, as may be applicable.

<sup>5</sup> Allowed only with approval of a Conditional Use Permit as set out in Section 3.2.1, *Restricted and Conditional Uses*, and 11.3.4, *Conditional Use Permits*.

<sup>6</sup> Single-Family Zero Lot Line developments must also comply with the standards of Subsection 4.2.3, *Single-Family Zero Lot Line Development*.

<sup>7</sup> For Single-Family Zero Lot Line development, one interior side lot line minimum setback may be 0' and the opposite interior side lot line must be a minimum of 10' in conformance with the approved subdivision plat for the development.

<sup>8</sup> **Tiny House Developments must also comply with the standards of Section 4.2.4, *Tiny House Development*.**

<sup>9</sup> **Maximum Tiny House size is 599 square feet.**

## Section 4.2.9 Accessory Dwelling Units (ADUs)

### F. Supplemental Standards for One-Story Detached ADUs.

1. *Area.* The floor area of a one-story detached ADU shall not exceed the lesser of the following:
  - d. *Exception.* In the FR<sub>1</sub> and RE<sub>1</sub> and ENZ.1 Districts, a one-story detached ADU shall not exceed 33 percent of the gross floor area of the principal building, or 1,200 square feet, whichever is smaller.

## DIVISION 4.6 SUPPLEMENTAL DEVELOPMENT STANDARDS

Table 4.6.4 Location, Fence, and Wall Height and Setback Requirements			
Location	Height <sup>1,2</sup>	Setack <sup>3</sup>	Additional Standards
Front Yard	3.5'	0'	Fences and walls shall have a maximum 50% opacity.
	6'	<del>20'</del> <b>Front building line</b>	<del>20'</del> setback is from street right-of-way and shall be landscaped green space. <sup>4</sup> <b>Six-foot fencing shall not be located any closer to the front property line or street than the primary structure.</b>
Street Side Yard	<del>3.5'</del>	<del>0'</del>	<del>Fences and walls shall have a maximum 50% opacity.</del>
	6'	±0'	<del>10'</del> setback is from street right-of-way and shall be landscaped green space. <b>Six-foot street side yard fencing shall not encroach into the front yard setback requirement.</b>
Interior Side Yard	6'/8'	0'	Where the use of the property or one the abutting properties is non-residential, industrial, or mixed-use, the maximum height is eight feet. If both are residential, the maximum height is six feet.
Rear Yard			
Double Frontage <del>Rear Yard</del>	3.5'	0'	Fences and walls shall have a minimum 50% opacity.
	6'	<del>5'</del> <b>10'</b>	10' setback is from street right-of-way and shall be landscaped green space.
Arterial Street Frontage	8'	5'	Frontage abuts a major or minor arterial.

**Table Notes:**

<sup>1</sup> Decorative columns, pilasters, stone caps, sculptural elements, and other similar architectural features may exceed the maximum height by up to one foot, provided that such taller elements comprise no more than 10 percent of the total wall length in elevation view.

<sup>2</sup> Fences and walls meeting the criteria for outdoor storage may be allowed additional height as set out in Section 4.6.5, *Outdoor Storage and Display of Merchandise*.

<sup>3</sup> All fences and walls shall be set back a minimum of two feet from an existing public sidewalk and three feet from an alley right-of-way.

<sup>4</sup> ~~The setback can be reduced by demonstrating a 20' landscaped area between the back of curb and fence location, which may be partially or full located within the right-of-way.~~

## Article 14, Definitions and Interpretations

### DIVISION 14.3 DEFINITIONS

**Cottage** means a small single-family detached dwelling **unit ranging in size from 600 square feet to 899 square feet** which is intended for small lots in specified zoning districts.

**Multifamily** means a **use whereby building(s) that contains three or more dwelling units that are accessed by from interior hallways or from individual exterior entrances (e.g., an apartment complex) are located on a single lot or tract under one ownership, and may include condominium form of ownership. The term multifamily including includes** apartments, triplexes, and fourplexes. The term multifamily does not include bed and breakfast lodging, manufactured housing, single-family detached or attached residential uses, or hotels/lodging.

**Recreational Vehicle Park (RV Park)** means a property or parcel of land developed for the use of ~~short or long-term occupancy~~ of two or more recreational vehicles in designated spaces.

**Townhouse** means an **dwelling unit, generally having two or more floors, attached to at least two (2) and no more than five (5) similar dwelling units (townhouse row) building which contains three to six dwelling units arranged in a linear form that are separated by common walls extending from foundation to roof with exposed front and rear walls, with each unit occupying space from ground to roof.** Townhouses ~~may be~~ situated on individual lots, ~~a single lot under one ownership, or a single lot through condominium ownership.~~

## ORDINANCE NO. 2020-O-03D

**AN ORDINANCE OF THE CITY OF MARBLE FALLS, TEXAS (“CITY”), AMENDING CITY OF MARBLE FALLS CODE OF ORDINANCES, CHAPTER 20, SIGNS, SECTION 20-3, DEFINITIONS, AND SECTION 20-10, TEMPORARY SIGNS; AND APPENDIX B, DEVELOPMENT CODE, ARTICLE 3, LAND USE, ARTICLE 4, GENERAL DEVELOPMENT REGULATIONS; AND ARTICLE 14, DEFINITIONS AND INTERPRETATIONS; PROVIDING FOR REPEALER, SEVERABILITY, EFFECTIVE DATE AND PROPER NOTICE AND MEETING.**

**WHEREAS**, the City of Marble Falls, Texas, (herein the “City”) is a home-rule city having authority to exercise its police power to regulate the health, safety and general welfare of the citizens of the City; and

**WHEREAS**, the City of Marble Falls, Texas, is legally empowered to regulate development in the community through the legitimate use of its police powers; and

**WHEREAS**, the City Council of the City of Marble Falls is legally empowered to amend sign regulations to provide for amendments, changes, and additions; and

**WHEREAS**, the City Council of the City of Marble Falls, Texas, is legally empowered to amend the land use and development regulations to provide for changes and additions to permitted uses, conditional uses, and site development regulation; and

**WHEREAS**, on October 23, 2018, the Marble Falls City Council, per Ordinance 2018-O-10A, adopted Appendix B, Development Code, of the City’s Code of Ordinances; and

**WHEREAS**, the City Council desires to provide amendments (the “Amendments”) to Chapter 20, Signs, of the Code of Ordinances and to Appendix B, Development Code, of the Code of Ordinances; and

**WHEREAS**, notice of a public hearing on these Amendments to be held by the Marble Falls Planning and Zoning Commission was published in the official newspaper of the City of Marble Falls, Texas, on February 18, 2020; and

**WHEREAS**, following proper mailed and published notice, a public hearing on the Amendments was held by the Marble Falls Planning and Zoning Commission on March 5, 2020; and

**WHEREAS**, on March 5, 2020, the Marble Falls Planning and Zoning Commission recommended approval of the Amendments; and

**WHEREAS**, notice of a public hearing on the Amendments to be held by the Marble Falls City Council was published in the official newspaper of the City of Marble Falls, Texas, on March 5, 2020; and

**WHEREAS**, following proper mailed and published notice, a public hearing on the Amendments was held by the Marble Falls City Council on March 17, 2020; and

**WHEREAS**, the City Council further finds that the Amendments provided under this Ordinance are in the best interest of the City of Marble Falls.

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

**SECTION I. PREAMBLE.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Marble Falls and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION II. AMENDMENT.** The City of Marble Falls Code of Ordinances is hereby amended in accordance with the following:

A. Chapter 20, Signs, is amended as follows:

1. Sec. 20-3. - Definitions, be amended as follows:

a. That the definition for development sign be amended to read "*Development sign* means signs announcing a new development and/or giving the name or names of principal contractors, architects and lending institutions responsible for construction of a subdivision or land development at the site where the sign is placed".

b. That the definition for human sign be added to read "*Human sign* means a sign that is worn (including costumes) or held by a human for commercial advertising or promotion purposes".

2. Sec. 20-10. - Temporary signs, Subsection B, Detached temporary signs, subsection 4, Feather flag signs (tear drop banners), be amended as follows:

a. That subsection 4(c), Location requirements, be amended to read "Location requirements. Feather flag signs shall be located within the premises of the business, organization, or event for which they advertise. Feather flag signs shall not create a traffic circulation disturbance or a vision obstruction to neighboring signs or traffic accessibility. Feather flag signs shall not block pedestrian paths (sidewalks), entrances or exits to buildings. Feather flag signs are prohibited from utilization in residential zoning districts, such as NR, TR, DR, ENZ.2, ENZ.3, or other PDD district equivalents and are prohibited on properties zoned Downtown (DN) District that are located west of US 281 and that do not front on US 281".

b. That subsection 4(d), Setback requirements, be amended to read "Setback requirements. None. Feather flag signs may be placed on the property line provided they are set back at least three (3) feet from a public sidewalk and ten (10) feet from a roadway and that all other provisions of this section are met".

3. That Sec. 20-10, Temporary signs, Subsection B, Detached temporary signs, be amended to add new subsection 8, Human Signs, to read as follows:

8. *Human signs.*

a. Maximum size. Six (6) square feet.

b. Allocation. One (1) human sign per property for a maximum period of two (2) weeks or fourteen (14) days per every six (6) month period.

c. Location requirements. Human signs are prohibited in the right-of-way. Human signs may be permitted anywhere on the premises of the private property on which the business being advertised is located provided they do not create a

hazard or impede vehicle, bicycle or pedestrian circulation and do not interfere with required visibility triangles.

- d. Design. Human signs shall not utilize any type of illumination, animation, flashing, blinking, rotating light, fluorescent colors, or mirrors, and may not generate any noise that would disrupt or endanger pedestrians or motorists.

4. Sec. 20-10, Temporary signs, Subsection E, Development sign, be amended to read “*Development sign*. Signs announcing or describing a subdivision or land development may be temporarily erected until construction of the subdivision or development is completed. Such signs shall not exceed one hundred (100) square feet in area and may be indirectly lighted. An annual permit is required”.

B. Appendix B, Development Code, is amended as follows:

1. That Article 3, Land Use, Division 3.1, Land Uses by District, Section 3.1.3, Residential and Neighborhood Uses, Table 3.1.3 Residential and Neighborhood Uses by Zoning District is amended with regard to tiny house development, duplex, townhouse, and the apartment land uses as follows:

Table 3.1.3 Residential and Neighborhood Uses by Zoning District																	
Land Use	ZONING DISTRICTS																Reference to Supplemental Use Standards
	P=Permitted R=Restricted E=Existing C=Conditional MP=Master Planned Community --=Prohibited																
	Ag	Residential					ENZ Subdistrict					Nonresidential					
FR	RE	NR	TR	DR	MR	ENZ. 1	ENZ. 2	ENZ. 3	ENZ. 4	ENZ. 5	NC	GC	DN	DT	BP	IN	
Tiny House Development	C	--	C	C	C	C	--	--	C	C	R	--	--	--	--	--	--
Duplex	--	--	MP	P	P	MP	--	C	P	P	P	C	--	--	--	--	--
Townhouse	--	--	MP	P	P	P	--	--	P	P	--	C	--	R	R	--	--
Apartment	--	--	--	C/ MP	C	P	--	--	--	P	--	C	--	R	R	--	--

Table 3.2.1.B

2. That Article 3, Land Use, Division 3.2, Supplemental Use Regulations, Section 3.2.1 Restricted and Conditional Uses, Table 3.2.1B, Residential and Neighborhood Restricted and Conditional Use Standards is amended as follows:

**Table 3.2.1.B Residential and Neighborhood Restricted and Conditional Use Standards**

Land Use	District	Development Standards	Operational/Other Standards
Tiny House Development	FR	Tiny House Developments are subject to the requirements of Section 4.2.4, <i>Tiny House Development</i> . Tiny House Developments in the FR, NR, TR, DR, MR, ENZ.3, and ENZ.4 districts are also subject to approval of a Conditional Use Permit.	All tiny houses shall be connected to utilities as set out in Subsection 4.2.4.C.6, <i>Utilities</i> and Subsection 4.2.4.C.7, <i>Solid Waste Disposal</i> , and shall comply with minimum building standards as set out in Subsection 4.2.4.B, <i>Tiny House Building Unit Standards</i> .
	NR		
	TR		
	DR		
	MR		
Duplex	ENZ.2	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
	NC	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
Townhouse	DN DT	Buildings must be designed to create an urban character with pedestrian interface. Entrances are required to face the street and must include a porch or stoop. Required parking must be accessed via an alley.	N/A
	NC	Limited to a maximum of 14 units per acre.	N/A
Apartment	DR	Limited to a maximum of 20 units per acre.	N/A
	TR	Limited to a maximum of 14 units per acre.	
	NC	Limited to a maximum of 14 units per acre.	
	DN DT	Limited to a maximum of 44 units per acre. Buildings must be designed to create an urban character, required parking is accessed via an alley and accommodated in a parking structure or a parking lot which uses the building to screen it from the public right-of-way. In the DN district, the first floor of the building shall be dedicated to nonresidential uses permitted within the district. No apartment units shall be located on the first floor in the DN District.	
Live-work unit	DN DT	Live-work units must be designed with a residential external appearance in the form of a townhouse. Customer parking must be provided on street, in a parking structure, or via alley access. The area devoted to the residence cannot exceed 50 percent of the total floor area.	N/A

3. That Article 3, Land Use, Division 3.2, Supplemental Use Regulations, Section 3.2.1, Restricted and Conditional Uses, Table 3.2.1C, Civic Restricted and Conditional Use Standards is amended to add the social service institution land use to read as follows:

**Table 3.2.1.C Civic Restricted and Conditional Use Standards**

Land Use	District	Development Standards	Operational and Other Standards
Social Service Institution	DR	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
	GC		
	DN		
	DT		
	BP		

4. That Article 3, Land Use, Division 3.2, Supplemental Use Regulations, Section 3.2.1, Restricted and Conditional Uses, Table 3.2.1D, Commercial Restricted and Conditional Use Standards with regard to the recreational vehicle (RV) park land use, is amended as follows:

Table 3.2.1.D Commercial Restricted and Conditional Use Standards			
Land Use	District	Development Standards	Operational/Other Standards
Recreational Vehicle (RV) Park	FR MR ENZ.5	<p>Recreational vehicles shall only be located within an RV Park subject to approval of a Conditional Use Permit and in accordance with the following:</p> <ul style="list-style-type: none"> <li>• An RV park shall be planned cohesively through a Site Development Plan.</li> <li>• All RV parks shall take access from an arterial or collector street with a driveway width of at least 30 feet.</li> <li>• A single recreational vehicle is allowed per space.</li> <li>• RVs shall be placed on a permanent parking pad at least 10 feet in width and 24 feet in depth constructed of concrete, asphalt, or similar material approved by the City Engineer.</li> <li>• Each RV space shall have adequate frontage width on an access drive to allow for loading/unloading maneuvering space.</li> <li>• RV parks may include sanitary facilities, park facility storage buildings, and/or management offices.</li> <li>• Common area amenities shall be required based on the number of units allotted per the Site Development Plan.</li> <li>• All spaces shall provide connections to potable water and electrical power.</li> <li>• The RV park shall provide a centralized solid waste collection facility.</li> <li>• A permanent marker identifying the space number is required to be clearly visible day and night for emergency vehicles.</li> <li>• Individual units/spaces shall not have accessory structures including, but not limited to, sheds and carports.</li> <li>• Outside storage at individual units/spaces is not allowed, except for a barbeque pit or similar outdoor cooking apparatus.</li> <li>• Individual RV units/spaces shall not have permanent decks and/or porches.</li> <li>• Individual RV units/spaces shall not have fencing.</li> </ul>	N/A

5. That Article 3, Land Use, Division 3.2, Supplemental Use Regulations, Section 3.2.1, Restricted and Conditional Uses, Table 3.2.1E, Industrial Restricted and Conditional Use Standards with regard to the self-storage land use, is amended as follows:

Table 3.2.1.E Industrial Restricted and Conditional Use Standards			
Land Use	District	Development Standards	Operational/Other Standards
Self-Storage	GC	When located adjacent to a major arterial level street, the facility shall be set back at least 150 feet from the right-of-way.	The use will be conducted entirely within an enclosed building. All units shall be accessed from an interior hallway and not contain an interior electrical outlet. Self-storage units shall be used solely for the purpose of storage and shall not be used for conducting or operating a business.
	IN	When located adjacent to a major arterial level street, the facility shall be set back at least 150 feet from the right-of-way. Additionally, unit doors shall not be visible from public rights-of-way nor residentially zoned or used properties. Outdoor storage areas shall be completely screened from view from the street by a wall or fence at least eight feet in height.	Outdoor storage areas shall comply with Section 4.6.5, <i>Outdoor Storage and Display of Merchandise</i> . Self-storage units shall be used solely for the purpose of storage and shall not be used for conducting or operating a business.

6. That Article 4, General Development Standards, Division 4.1, General Use Provisions, Section 4.1.1, Use of Land and Water, Generally, is amended to add Subsection C to read as

follows: “Restriction of age of structure moved into or within the city limits. No structure more than five (5) years of age may be moved into the city limits or moved between any properties within the city limits without specific approval from the Planning and Zoning Commission. Structures for which the principal use is primary or secondary educational facilities shall be exempt from this provision”.

7. That Article 4, General Development Standards, Division 4.2, New Residential Development Design, Table 4.2.1, Development Options and Yield for New Residential Development, is amended as follows:

Table 4.2.1 Development Options and Yield for New Residential Development					
Development Option	Min. Area of Development	Min. Lot Size/ Area Per Dwelling Unit	Max. Gross Density per Acre	Min. Open Space Area	Min. Dwelling Unit Size
<b>Transitional Residential (TR) District</b>					
Tiny House Development <sup>2,4</sup>	5.0 ac.	3,600 sf	5.25	40%	140 sf <sup>7</sup>
Triplex	10,500 sf	10,500 sf	12.00	25%	N/A
Quadplex	14,500 sf	14,500 sf	12.00	25%	N/A
<b>Downtown (DN) and Downtown Transition (DT) Districts</b>					
Townhouse (Rear-Loaded) <sup>9</sup>	42,000 sf	2,000 sf	20.00	N/A	N/A
Apartment <sup>6</sup>	N/A	N/A	44.00	N/A	N/A
Loft Apartment <sup>6</sup>	N/A	N/A	44.00	N/A	N/A
<b>Table Notes:</b>					
<sup>9</sup> Townhouses in the Downtown (DN) and Downtown Transition (DT) Districts are subject to the standards set out in Section 4.3.4, <i>Special Design Standards for Downtown (DN) and Downtown Transition (DT) Districts</i> .					

8. That Article 4, General Development Standards, Division 4.2, New Residential Development Design, Table 4.2.2, Lot and Building Standards for New Residential Development, is amended as follows:

Table 4.2.2 Lot and Building Standards for New Residential Development										
Development Option	Min. Lot Size/ Area Per Unit	Min. Lot Width	Min. Lot Frontage	Min. Setbacks					Max. Height Building/ Structure	Max. Lot Coverage
				Front	Interior Side	Street Side	Rear	Garage		
<b>Neighborhood Residential (NR) District</b>										
Neighborhood (Single-Family Detached)	5,000 sf	45' <sup>12</sup> / 55' <sup>1</sup>	20'	25'	5'	10'	15'	25'/ 7.5' <sup>2</sup>	35'	50%
Neighborhood (Rear-Loaded) (Single-Family Detached) <sup>3</sup>	4,200 sf	38'/ 48' <sup>1</sup>	20'	15'	5'	10'	15'	7.5' <sup>2</sup>	35'	60%
Single-Family Zero Lot Line <sup>10</sup>	5,000 sf	45' <sup>12</sup> / 60' <sup>1</sup>	20'	25'	0'/10' <sup>11</sup>	10'	15'	25'/ 7.5' <sup>2</sup>	35'	50%
<b>Transitional Residential (TR) District</b>										
Tiny House Development <sup>6,8</sup>	3,600 sf	40'	20'	15'	5'	10'	15'	N/A	25'	50%
Triplex	12,000 sf	50'	50'	25'	10'	15'	15'	25'	40'	70%
Quadplex	14,500 sf	50'	50'	25'	10'	15'	15'	25'	40'	70%
Apartment <sup>8,9</sup>	N/A	60'	60'	25'	15'	20'	15'	N/A	40'	70%
<b>Downtown (DN) and Downtown Transition (DT) Districts</b>										
Townhouse (Rear-Loaded) <sup>3, 13</sup>	2,000 sf	20'	20'	0'/ 10' <sup>14</sup>	5'/ 0' <sup>4</sup>	10'	15'	7.5' <sup>2</sup>	60'	70%

Table 4.2.2 Lot and Building Standards for New Residential Development										
Development Option	Min. Lot Size/ Area Per Unit	Min. Lot Width	Min. Lot Frontage	Min. Setbacks					Max. Height Building/ Structure	Max. Lot Coverage
				Front	Interior Side	Street Side	Rear	Garage		
<b>Table Notes:</b>										
<sup>12</sup> Lot widths within a development of at least 20 homes may be reduced to 40 feet provided the average lot width within the development is at least 45 feet.										
<sup>13</sup> Townhouses in the Downtown (DN) and Downtown Transition (DT) Districts are subject to the standards set out in Section 4.3.4, <i>Special Design Standards for Downtown (DN) and Downtown Transition (DT) Districts</i> .										
<sup>14</sup> Townhouses in the Downtown (DN) District are required to be built to the front property line and townhouses in the Downtown Transition (DT) District are required to be built within ten (10) feet of the front property line.										

9. That Article 4, General Development Standards, Division 4.2, New Residential Development Design, Table 4.2.6A, Downtown Residential Lot and Building Standards, is amended as to Tiny House Development and to add new Table Notes 14 and 15 as follows:

Table 4.2.6.A Downtown Residential Lot and Building Standards										
Land Use	Min. Lot Width	Min. Lot Size/ Area per Unit	Max. Lot Coverage	Min. Setbacks					Max. Building/ Structure Height	Minimum Dwelling Unit Size
				Front	Interior Side	Street Side	Rear	Garage Access		
Tiny House Development <sup>6,14</sup>	40'	3,600 sf	60%	15'	5'	10'	15'	N/A	25'	140 sf <sup>15</sup>
<b>Table Notes:</b>										
<sup>14</sup> Tiny House Developments must also comply with the standards of Section 4.2.4, <i>Tiny House Development</i> .										
<sup>15</sup> Maximum Tiny House size is 599 square feet.										

10. That Article 4, General Development Standards, Division 4.2, New Residential Development Design, Table 4.2.7A, Existing Neighborhood Zones General Lot and Building Standards, is amended as to Tiny House Development and to add new Table Notes 8 and 9 as follows:

Table 4.2.7.A Existing Neighborhood Zones General Lot and Building Standards										
ENZ Sub-district	Development Type	Min. Lot Width	Lot Area & Coverage		Min. Setbacks				Max. Building/ Structure Height	Min. Dwelling Unit Size
			Minimum Area per Lot / Unit	Max. Lot Coverage	Front	Interior Side	Street Side	Rear		
ENZ.3	Tiny House Development <sup>6,14</sup>	50'	6,000 sf	60%	25'	5'	15'	15'	25'	140 sf <sup>15</sup>
ENZ.4	Tiny House Development <sup>6,14</sup>	50'	6,000 sf	60%	25'	5'	15'	15'	25'	140 sf <sup>15</sup>
ENZ.5	Tiny House Development <sup>5,8</sup>	50'	5,000 sf	60%	25'	5'	15'	15'	25'	140 sf <sup>9</sup>
<b>Table Notes:</b>										
<sup>8</sup> Tiny House Developments must also comply with the standards of Section 4.2.4, <i>Tiny House Development</i> .										
<sup>9</sup> Maximum Tiny House size is 599 square feet.										

11. That Article 4, General Development Standards, Division 4.2, New Residential Development Design, Section 4.2.9.F.1.d, Supplemental Standards for One-Story Detached ADUs, is amended to read as follows: *“Exception. In the FR, RE and ENZ.1 Districts, a one-story detached ADU shall not exceed 33 percent of the gross floor area of the principal building, or 1,200 square feet, whichever is smaller”*.

12. That Article 4, General Development Standards, Division 4.6, Supplemental Development Standards, Table 4.6.4, Location, Fence, and Wall Height and Setback Requirements, is amended to read as follows:

Table 4.6.4 Location, Fence, and Wall Height and Setback Requirements			
Location	Height <sup>1,2</sup>	Setback <sup>3</sup>	Additional Standards
Front Yard	3.5'	0'	Fences and walls shall have a maximum 50% opacity.
	6'	Front building line	Six-foot fencing shall not be located any closer to the front property line or street than the primary structure.
Street Side Yard	6'	0'	Six-foot street side yard fencing shall not encroach into the front yard setback requirement.
Interior Side Yard	6'/8'	0'	Where the use of the property or one the abutting properties is non-residential, industrial, or mixed-use, the maximum height is eight feet. If both are residential, the maximum height is six feet.
Rear Yard			
Double Frontage Rear Yard	3.5'	0'	Fences and walls shall have a minimum 50% opacity.
	6'	10'	10' setback is from street right-of-way and shall be landscaped green space.
Arterial Street Frontage	8'	5'	Frontage abuts a major or minor arterial.
<b>Table Notes:</b> <sup>1</sup> Decorative columns, pilasters, stone caps, sculptural elements, and other similar architectural features may exceed the maximum height by up to one foot, provided that such taller elements comprise no more than 10 percent of the total wall length in elevation view. <sup>2</sup> Fences and walls meeting the criteria for outdoor storage may be allowed additional height as set out in Section 4.6.5, <i>Outdoor Storage and Display of Merchandise</i> . <sup>3</sup> All fences and walls shall be set back a minimum of two feet from an existing public sidewalk and three feet from an alley right-of-way.			

13. That Article 14, Definitions and Interpretations, Division 14.3, Definitions, is amended to read as follows:

a. *Cottage* means a small single-family detached dwelling unit ranging in size from 600 square feet to 899 square feet which is intended for small lots in specified zoning districts.

b. *Multifamily* means a use whereby three or more dwelling units are located on a single lot or tract under one ownership, and may include condominium form of ownership. The term multifamily includes apartments, triplexes, and fourplexes. The term multifamily does not include bed and breakfast lodging, manufactured housing, single-family detached or attached residential uses, or hotels/lodging.

c. *Recreational Vehicle Park (RV Park)* means a property or parcel of land developed for the use of two or more recreational vehicles in designated spaces.

d. *Townhouse* means a dwelling unit, generally having two or more floors, attached to at least two (2) and no more than five (5) similar dwelling units (townhouse row) arranged in a linear form that are separated by common walls extending from foundation to roof with exposed front and rear walls, with each unit occupying space from ground to roof. Townhouses are situated on individual lots.

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

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

**SECTION V. EFFECTIVE DATE.** This ordinance shall be and become effective immediately upon and after its passage and publication as may be required by law.

**SECTION VI. PROPER NOTICE AND MEETING.** It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**DULY PASSED** by the City Council of the City of Marble Falls, Texas, on the 7<sup>th</sup> day of July, 2020.

**CITY OF MARBLE FALLS, TEXAS**

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

ATTEST:

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

(Seal)

APPROVED AS TO FORM:

\_\_\_\_\_  
Patty L. Akers, City Attorney

**July 7, 2020**

**7. REGULAR AGENDA**

(e) Discussion regarding potential permitting of long term stays in recreational vehicle parks. *Valerie Kreger, Director of Development Services*

---



**Council Agenda Item Cover Memo**  
**July 7, 2020**

**Agenda Item No.:** 7(e)  
**Presenter:** Valerie Kreger, Director of Development Services  
**Department:** Development Services  
**Legal Review:** n/a

**AGENDA CAPTION**

Discussion regarding potential permitting of long term stays in recreational vehicle parks.

**BACKGROUND INFORMATION**

This item is for discussion of the potential of City permitting of long term stays in recreational vehicle (RV) parks within the City. A separate item proposing updated language to the Conditional Use Permit restrictions preceded this item.

The Development Code allows RV parks within the City Limits only with approval of a Conditional Use Permit (CUP) in the Farm and Ranch (FR) district, Multifamily Residential (MR) district, and the Existing Neighborhood Zone 5 (ENZ.5) district. Along with approval of a CUP by City Council, the RV parks must also follow certain restrictions as follows:

Recreational vehicles shall only be located within an RV Park subject to approval of a Conditional Use Permit and in accordance with the following:

- An RV park shall be planned cohesively through a Site Development Plan.
- All RV parks shall take access from an arterial or collector street with a driveway width of at least 32 feet.
- A single recreational vehicle is allowed per space.
- RVs shall be placed on a permanent parking pad at least 10 feet in width and 24 feet in depth constructed of concrete, asphalt, or similar material approved by the City Engineer.
- Each RV space shall have adequate frontage width on an access drive to allow for loading/unloading maneuvering space.
- RV parks may include sanitary facilities, storage buildings, and/or management offices.
- Common area amenities shall be required based on the number of units allotted per the Site Development Plan.
- All spaces shall provide connections to potable water, sanitary sewer, and electrical power.
- The RV park shall provide a centralized solid waste collection facility.
- A permanent marker identifying the space number is required to be clearly visible day and night for emergency vehicles.

Additional language was proposed with the previous Council item in an effort to clarify and set the environment of the intended temporary nature of RV parks within the City. These clarifications included:

- Clarifying storage buildings are only allowed for the facility itself,
- Removing the requirement for all spaces to provide connections to sanitary sewer,
- Stipulating the RV Park Facility shall not provide or be used as the permanent address for any units and mailboxes shall not be provided for units,
- Stipulating individual units/spaces shall not have accessory structures including, but not limited to, sheds and carports,
- Stipulating outside storage at individual units/spaces is not allowed, except for a barbeque pit or similar outdoor cooking apparatus,
- Stipulating individual RV units/spaces shall not have permanent decks and/or porches, and
- Stipulating individual RV units/spaces shall not have fencing.

Additionally, the changes include revising the definition of RV park to remove the wording stating it is for short- or long-term occupancy.

The challenge the City staff has with enforcing the length of stay of these units is that, other than if they were to violate the restrictions above and set up clear improvements indicating permanent occupancy, there is no way of tracking the length of stay or of visibly determining the length of time an RV has been at a site.

In an effort to address this challenge, it has been requested that the City consider adopting requirements that any RV in the City that will be staying for a longer period of time, yet undefined, be required to obtain a permit from the City that would be posted upon the unit displaying the time period the unit may remain.

This proposal would address the tracking issue presented with long term stays; however, it would only be for those units that actually obtained a permit. Additional staff time would be required to issue and track these permits and the challenge regarding visibly determining the length of time an RV has been at a site – and whether or not it should have or will need to obtain a permit - would remain.

## **RECOMMENDATION**

This item is for discussion only.

**July 7, 2020**

**7. REGULAR AGENDA**

- (f) Discussion and Action regarding the development of regulations pertaining to Short Term Rentals within the City of Marble Falls. *Caleb Kraenzel, Assistant City Manager*
-



**Council Agenda Item Cover Memo**  
**July 7, 2020**

**Agenda Item No.:** 7(f)  
**Presenter:** Caleb Kraenzel, Assistant City Manager  
**Department:** Administration  
**Legal Review:**  N/A

**AGENDA CAPTION**

Discussion and Action regarding the development of regulations pertaining to Short Term Rentals within the City of Marble Falls.

**BACKGROUND INFORMATION**

This item is to discuss and receive direction from the Council regarding a process for development of regulations for Short Term Rentals in the City.

Through the years and various staff members involved on this issue, there is a familiarization with the pros, cons, and sentiment in the community regarding Short Term Rentals.

STRs regulations would:

- Increase the lodging availability in the community
- Increase Hotel/Motel revenue
- Provide a formal process for authorizing the use
- Provides homestead homeowners alternative revenue stream
- Add permitting and enforcement duties (Development Services Dept.)

STRs have receive a lot of media coverage and is a consistent training topic in municipal government. Many communities allow and regulate STRs and provide a basis for examples of regulations and enforcement dynamics.

Based on this, the staff has developed a general framework for a set of Short-Term Rental regulations that seeks to balance the different viewpoints and eases the organization and community into the implementation of this use.

Here are some key points from the draft framework that has been thus far developed:

- Short Term Rentals would be allowed by issuance of an annual License.
- There would be two types of Licenses:

- 365 STR License – Allows for residences to be a full-time short-term rental property.
- Homeowner STR - Second would be for homestead residence(s) to be allowed to occasionally short-term rental their home (for example up to 10% annually, 36.5 days; example 3 days a month/one weekend a month)

These regulations would establish the house and property requirements, rules for operation, and enforcement provisions.

The options we have developed for a process to create and recommend STR regulations is as follows:

- P&Z > City Council – Develop draft regulations working with the P&Z for recommendation to City Council
- Council – An ordinance with STR regulations developed by staff and presented directly to City Council
- Citizen Committee > P&Z > City Council – Appoint a citizen committee to develop STR regulations, recommend to P&Z, and P&Z recommend to City Council.

## **RECOMMENDATION**

City staff recommends development of a draft STR regulation by working through the Planning and Zoning Commission for recommendation to City Council.



**City of Marble Falls, Texas  
Council Agenda Item Cover Memo  
July 7, 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 §551.071 (*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 Roper Public Improvement District

**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