

AGENDA
REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS
447 North Main Street
Boerne, Texas 78006
April 14, 2020 – 6:00 PM

Due to the COVID-19 pandemic, this meeting is being held telephonically only as allowed by the Governor of Texas during this public health emergency.

Please do not attend the meeting in person.

You may join the City Council Meeting:

Join Zoom Meeting

<https://zoom.us/j/956291263>

Dial in by phone toll free:

888 788 0099 US Toll-free

877 853 5247 US Toll-free

Meeting ID: 956 291 263

1. CALL TO ORDER – 6:00 PM

MOMENT OF SILENCE

2. CONFLICTS OF INTEREST

3. [2020-273](#) PUBLIC COMMENTS: This is the opportunity for visitors and guests to address the City Council on any issue, in compliance with LGC Section 551.007. City Council may not discuss any presented issue, nor may any action be taken on any issue at this time. (attorney general opinion - JC-0169)

Attachments: [Instructions](#)

The City Council will allot a maximum of 30 minutes for Public Comments. Presentations will be limited to 3 minutes per speaker.

4. CONSENT AGENDA: All items listed below within the Consent Agenda are considered to be routine by the City Council and may be enacted with one motion. There will be no separate discussion of items unless a Council Member or citizen so requests, in which event the item may be moved to the general order of business and considered in its normal sequence.

- 4.A. [2020-266](#) CONSIDER THE MINUTES OF THE REGULAR CITY COUNCIL MEETING OF MARCH 24, 2020.

Attachments: [Minutes.20.0324](#)

- 4.B. [2020-268](#) CONSIDER RESOLUTION NO. 2020-R26; A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AND MANAGE AN AGREEMENT WITH MCCOY TREE SURGERY, INC. THROUGH THE LOWER COLORADO RIVER AUTHORITY FOR TREE TRIMMING SERVICES.

Attachments: [AIS LCRA Tree Trimming 2020](#)
[Resolution No. 2020-R26](#)
[Boerne-Tree-Contract-2020](#)

5. [2020-267](#) CONSIDER A ONE-TIME READING OF ORDINANCE NO. 2020-10; AS PERMITTED BY THE CITY OF BOERNE'S HOME RULE CHARTER, SECTION 3.11.A. (As described below)

6. [2020-269](#) DISCUSSION OF ANY MATTERS RELATED TO COVID-19 STATE OF DISASTER AND PUBLIC HEALTH EMERGENCY AND CONSIDER ORDINANCE NO. 2020-10; AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS CONTINUING DECLARATION OF STATE OF LOCAL DISASTER AND PUBLIC HEALTH EMERGENCY TO APRIL 30, 2020; ADOPTING THE PREVIOUS DECLARATIONS OF MAYOR HANDREN; PROVIDING PROMPT AND GENERAL PUBLICITY; GRANTING THE MAYOR THE POWER AND AUTHORITY TO REVIEW, ADOPT, RATIFY, AND EXECUTE SUBSEQUENT EMERGENCY ORDERS ON BEHALF OF THE CITY COUNCIL; SUSPENDING THE APPLICABILITY OF THE REQUIREMENTS OF THE PUBLIC INFORMATION ACT DUE TO CATASTROPHE; AND PROVIDING AN EFFECTIVE DATE.

Attachments: [AIS For Ordinance Extending State of Disaster](#)
[Ordinance No. 2020-10](#)

7. [2020-271](#) CONSIDER RESOLUTION NO. 2020-R27; A RESOLUTION

RESCINDING RESOLUTION 2020-R21, AUTHORIZING THE CITY MANAGER TO ENTER INTO AND MANAGE AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BETWEEN THE CITY OF BOERNE, TEXAS AND GUY SANDERS FOR 153 SOUTH MAIN; AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AND MANAGE A NEW ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BETWEEN THE CITY OF BOERNE, TEXAS AND GUY SANDERS FOR 153 S MAIN FOR ECONOMIC DEVELOPMENT ACTIVITIES.

Attachments: [153 S MAIN AIS](#)
[2020-R27 ED Guy Sanders New](#)
[380 Agreement 153 S. Main revised clean copy 04.09.20 2](#)

8. [2020-270](#) DISCUSSION OF FINANCIAL STABILITY OF THE CITY AND POSSIBLE ACTION RELATED TO BUSINESS RETENTION.

Attachments: [AIS Financial Stability of City](#)
[COVID 19 Event - Impact on City finances-Summary 4-9-20](#)

9. COMMENTS FROM COUNCIL/LEGAL COUNSEL/STAFF – No discussion or action may take place.

10. EXECUTIVE SESSION IN ACCORDANCE WITH THE TEXAS GOVERNMENT CODE:

- 10.A. [2020-272](#) SECTION 551.074 - PERSONNEL MATTERS TO DISCUSS AND CONSIDER THE FUTURE CITY MANAGER POSITON, QUALIFICATIONS, DUTIES AND RESPONSIBILITIES; TRANSITIONAL STEPS AND TIMELINE; PROCESS FOR RECRUITMENT IF NECESSARY.

11. RECONVENE INTO OPEN SESSION AND TAKE ANY NECESSARY ACTION RELATING TO THE EXECUTIVE SESSION AS DESCRIBED ABOVE.

12. EXECUTIVE SESSION IN ACCORDANCE WITH THE TEXAS GOVERNMENT CODE: CITY COUNCIL MAY, AS PERMITTED BY LAW, ADJOURN INTO EXECUTIVE SESSION AT ANY TIME TO DISCUSS ANY MATTER LISTED ABOVE INCLUDING IF THEY MEET THE QUALIFICATIONS IN SECTIONS 551.071 (CONSULTATION WITH ATTORNEY), 551.072 (DELIBERATION REGARDING REAL PROPERTY), 551.073 (DELIBERATION REGARDING GIFTS), 551.074 (PERSONNEL/OFFICERS), 551.076 (DELIBERATION REGARDING SECURITY DEVICES), AND SECTION 551.087 (DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS) OF CHAPTER 551 OF THE TEXAS GOVERNMENT CODE.
(If needed)

13. ADJOURNMENT

s/s Ronald C. Bowman
City Manager

CERTIFICATION

**I hereby certify that the above notice of meeting was posted on the 9th day of
March, 2020 at 5:10 p.m.**

s/s Lori A. Carroll
City Secretary

NOTICE OF ASSISTANCE AT THE PUBLIC MEETINGS

The Police / Municipal Court Complex is wheelchair accessible. Access to the building and special parking is available at the front entrance of the building. Requests for special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 830-249-9511.

Pursuant to Section 30.06 Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

Pursuant to section 30.07 Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

Instructions to join the City Council Meeting for April 14, 2020 by phone:

Join meeting by phone:

Call one of the numbers provided. **888-788-0099 US Toll-free or 877- 853-5247 US Toll-free**

Then enter your meeting ID followed by #. **956 291 263#**

You will hear “enter your participant ID followed by #”. There is not an ID so just press **#**

How can I participate in Public Comments? **Using the phone keypad: press *9 to toggle the raise/lower hand**

PLEASE KEEP MICROPHONES MUTED DURING THE MEETING unless you have raised you hand during the public comment portion and then lowered it after speaking.

Instructions to join the City Council Meeting for April 14, 2020 with computer:

Join a meeting by clicking on a Zoom link provided by the meeting **<https://zoom.us/j/956291263>**

follow the prompts to download and run Zoom => **then enter the meeting ID if prompted =>**

956-291-263

Then click to join the audio conference.

How can I raise my hand to participate in Public Comments?

During the public comments portion of the meeting, you can

- 1. click on the icon labeled "Participants" at the bottom center of your PC or Mac screen.**
- 2. At the bottom of the window on the right side of the screen, click the button labeled "Raise Hand." Your digital hand is now raised. Make your comments, then lower the hand by clicking that button again.**

PLEASE KEEP MICROPHONES MUTED DURING THE MEETING unless you have raised you hand during the public comment portion.

MINUTES
REGULAR CITY COUNCIL MEETING
March 24, 2020 – 6:00 PM

Due to the COVID-19 pandemic, this meeting is being held telephonically only as allowed by the Governor of Texas during this public health emergency. Please do not attend the meeting in person.

Minutes of the Regular Called City Council Meeting of March 24, 2020 at 6:00 p.m.

Present: Mayor Tim Handren, Mayor Pro Tem Nina Woolard, Council Member Quinten Scott. Council Member Brian Fowler and Council Member Joe Macaluso were present via telephone.

Staff Present: Ron Bowman, Pam Bransford, Jeff Carroll, Lori Carroll, Sheldon Cravey, Mike Mann, Sandy Mattick, Doug Meckel, Mike Raute, Barbara Quirk, Chris Shadrock, Laura Talley, and Jeff Thompson.

Recognized Guest: Ben Eldredge and John Clamp on the telephone call.

1. CALL TO ORDER – 6:00 PM

Mayor Handren called the City Council meeting to order at 6:04 p.m.

2. CONFLICTS OF INTEREST

No conflicts were declared.

3. PUBLIC COMMENTS:

No comments were received.

4. CONSENT AGENDA:

4.A. [2020-256](#) CONSIDER THE MINUTES OF THE SPECIAL CALLED CITY COUNCIL MEETING OF MARCH 4, 2020 (TRANSPORTATION MEETING) AND

REGULAR CITY COUNCIL MEETING OF MARCH 10, 2020

THE MINUTES WERE APPROVED.

- 4.B. [2020-258](#) **CONSIDER ON SECOND READING ORDINANCE NO. 2020-07; AN ORDINANCE AMENDING THE CITY OF BOERNE ZONING ORDINANCE NO. 2007-64, CAPTIONED, "ZONING ORDINANCE OF THE CITY OF BOERNE, TEXAS", DATED DECEMBER 18, 2007, BY AMENDING ARTICLE 3, SECTION 14, REZONING 0.35 ACRES LOCATED AT 32828 INTERSTATE HIGHWAY 10 WEST (KAD NO. 26885) FROM I, INDUSTRIAL DISTRICT TO B-2, HIGHWAY COMMERCIAL DISTRICT; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SEVERANCE CLAUSE; AND DECLARING AN EFFECTIVE DATE. (Christine Jacques)**

THE ORDINANCE WAS APPROVED.

- 4.C. [2020-263](#) **CONSIDER RESOLUTION NO. 2020-R22; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS, POSTPONING THE GENERAL ELECTION SCHEDULED FOR MAY 2, 2020, FOR THE PURPOSE OF ELECTING A CITY COUNCIL MEMBER FOR DISTRICT 3, TO THE NOVEMBER 3, 2020 UNIFORM ELECTION DATE; AND AUTHORIZING EXECUTION OF A JOINT ELECTION CONTRACT FOR THE NOVEMBER 3, 2020 ELECTION.**

THE RESOLUTION WAS APPROVED.

A MOTION WAS MADE BY MAYOR PRO TEM WOOLARD, SECONDED BY COUNCIL MEMBER WOLOSIN TO APPROVE THE CONSENT AGENDA AS PROVIDED. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 5 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Scott, Council Member Fowler, and Council Member Macaluso

5. [2020-257](#) **DISCUSSION OF ANY MATTERS RELATED TO COVID-19 STATE OF DISASTER AND PUBLIC HEALTH EMERGENCY AND CONSIDER RESOLUTION NO. 2020-R23; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS CONTINUING DECLARATION OF STATE OF LOCAL DISASTER AND PUBLIC HEALTH EMERGENCY; ADOPTING THE PREVIOUS DECLARATIONS OF MAYOR HANDREN;**

PROVIDING PROMPT AND GENERAL PUBLICITY; GRANTING THE MAYOR THE POWER AND AUTHORITY TO REVIEW, ADOPT, RATIFY, AND EXECUTE SUBSEQUENT EMERGENCY ORDERS ON BEHALF OF THE CITY COUNCIL; SUSPENDING THE APPLICABILITY OF THE REQUIREMENTS OF THE PUBLIC INFORMATION ACT DUE TO CATASTROPHE; AND PROVIDING AN EFFECTIVE DATE.

Mayor Handren stated that he would like to reconsider the travel portion of the Third Declaration. It was the consensus of the City Council that it read: Any City of Boerne Resident who returns to Boerne after visiting a high risk area, are strongly urged to self-quarantine in a place of lodging for a period of no less than 14 days, maintaining isolation from other persons to maximum extent possible. Mayor Handren also recommended that gatherings of any size shall be avoided, strike the sentence that Churches are not exempt, include chiropractors as an essential health care provider, and adding auto sales to the essential workforce. Mayor Handren stated that the intent of the Declaration is to minimize health risks.

A MOTION WAS MADE BY MAYOR PRO TEM WOOLARD, SECONDED BY COUNCIL MEMBER WOLOSIN, TO APPROVE RESOLUTION NO. 2020-R23; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS CONTINUING DECLARATION OF STATE OF LOCAL DISASTER AND PUBLIC HEALTH EMERGENCY; ADOPTING THE PREVIOUS DECLARATIONS OF MAYOR HANDREN; PROVIDING PROMPT AND GENERAL PUBLICITY; GRANTING THE MAYOR THE POWER AND AUTHORITY TO REVIEW, ADOPT, RATIFY, AND EXECUTE SUBSEQUENT EMERGENCY ORDERS ON BEHALF OF THE CITY COUNCIL; SUSPENDING THE APPLICABILITY OF THE REQUIREMENTS OF THE PUBLIC INFORMATION ACT DUE TO CATASTROPHE; AND PROVIDING AN EFFECTIVE DATE AMENDING THE SECTION ON TRAVEL TO READ ANY CITY OF BOERNE RESIDENT WHO RETURNS TO BOERNE AFTER VISITING A HIGH RISK AREA, ARE STRONGLY URGED TO SELF-QUARANTINE IN A PLACE OF LODGING FOR A PERIOD OF NO LESS THAN 14 DAYS, MAINTAINING ISOLATION FROM OTHER PERSONS TO MAXIMUM EXTENT POSSIBLE; ADDING GATHERINGS OF ANY SIZE SHALL BE AVOIDED; STRIKE THE SENTENCE THAT CHURCHES ARE NOT EXEMPT; INCLUDE CHIROPRACTORS AS AN ESSENTIAL HEALTH CARE PROVIDER; AND ADDING AUTO SALES TO THE ESSENTIAL WORKFORCE. THE DECLARATION TO REMAIN IN EFFECT UNTIL APRIL 23, 2020. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 5 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Scott, Council Member Fowler, and Council Member Macaluso

6. [2020-252](#) DISCUSSION OF CURRENT AND POTENTIAL CITY OF BOERNE COVID-19 MEASURES.

Mayor Handren discussed various measures that the City is taking in regards to the COVID-19 virus. Mayor Handren stated that no utilities will be disconnected for non-payment. Deputy City Manager stated that several projects have been put on hold to include sidewalks, chip seal, and delaying the new stormwater fee. Discussion ensued regarding the Good Neighbor Fund which the utility customers can donate through their utility bill.

7. PUBLIC HEARING – To Hear Comments On The Following:

7.A. [2020-260](#) PROPOSED BOERNE PACE PROGRAM.

Mayor Handren opened the Public Hearing at 7:19 p.m.

Ben Eldredge spoke in support of the PACE program.

Mayor Handren closed the Public Hearing at 7:22 p.m.

8. TAKE ANY NECESSARY ACTION RESULTING FROM THE PUBLIC HEARING:

8.A. [2020-261](#) CONSIDER RESOLUTION NO. 2020-R24; A RESOLUTION OF THE CITY OF BOERNE CITY COUNCIL ESTABLISHING THE CITY OF BOERNE PACE PROGRAM.

Mayor Handren called on Mr. John Clamp, Chief Financial Officer with the Alamo Area Council of Government to provide information on the PACE Program.

A MOTION WAS MADE COUNCIL MEMBER WOLOSIN, SECONDED BY MAYOR PRO TEM WOOLARD, TO APPROVE RESOLUTION NO. 2020-R24; A RESOLUTION OF THE CITY OF BOERNE CITY COUNCIL ESTABLISHING THE CITY OF BOERNE PACE PROGRAM. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 5 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Scott, Council Member Fowler, and Council Member Macaluso

8.B. [2020-262](#) CONSIDER RESOLUTION NO. 2020-R25; A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AND MANAGE A PACE PROGRAM INTERLOCAL AGREEMENT BY AND BETWEEN THE ALAMO AREA COUNCIL OF GOVERNMENTS AND THE CITY OF BOERNE, TEXAS.

A MOTION WAS MADE BY MAYOR PRO TEM WOOLARD, SECONDED BY COUNCIL MEMBER WOLOSIN, TO APPROVE RESOLUTION NO. 2020-R25; A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AND MANAGE A PACE PROGRAM INTERLOCAL AGREEMENT BY AND BETWEEN THE ALAMO AREA COUNCIL OF GOVERNMENTS AND THE CITY OF BOERNE, TEXAS. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 5 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Scott, Council Member Fowler, and Council Member Macaluso

9. COMMENTS FROM COUNCIL/LEGAL COUNSEL/STAFF – No discussion or action may take place.

City Manager Ron Bowman stated that City Staff has been working on many issues related to COVID-19. City Staff is working staggered shifts, limiting employee attendance. Mr. Bowman expressed appreciation to Staff especially Captain Perez as the point person on the City's Task Force, the Information Technology Department as well as the Communications Department. The Boerne Chamber and Boerne Kendall County Economic Development Corporation are also assisting our residents as well as local businesses.

Deputy City Manager Jeff Thompson stated that he received notification from Waste Management that their call center is closed.

Captain Steve Perez provided a briefing on the COVID-19.

Council Member Wolosin expressed appreciation to the Mayor, Staff, the citizens, and retailers during these trying times. He stated that everyone should stay strong and stay smart.

Council Member Scott stated that even with limited staff, he was able to get his building permit and paying online was easy.

Mayor Handren stated that he is on the daily briefing calls with multiple entities. He expressed appreciate to Staff, to Captain Perez and Jeff Fincke with Kendall County for their service to the community.

10. EXECUTIVE SESSION IN ACCORDANCE WITH THE TEXAS GOVERNMENT CODE: CITY COUNCIL MAY, AS PERMITTED BY LAW, ADJOURN INTO EXECUTIVE SESSION AT ANY TIME TO DISCUSS ANY MATTER LISTED ABOVE INCLUDING IF THEY MEET THE QUALIFICATIONS IN SECTIONS 551.071 (CONSULTATION WITH ATTORNEY), 551.072 (DELIBERATION REGARDING REAL PROPERTY), 551.073 (DELIBERATION REGARDING GIFTS), 551.074 (PERSONNEL/OFFICERS), 551.076 (DELIBERATION REGARDING SECURITY DEVICES), AND SECTION 551.087 (DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS) OF CHAPTER 551 OF THE TEXAS GOVERNMENT CODE. (If needed)

The City Council did not convene into Executive Session.

11. ADJOURNMENT


Mayor Handren adjourned the City Council meeting at 7:36 p.m.

Approved:

Mayor

Attest:

City Secretary

	<div style="text-align: center;">AGENDA ITEM SUMMARY</div> <div style="border: 1px dashed purple; padding: 5px; float: right; margin-top: 10px;"> District Impacted <input type="checkbox"/> 1 = Wolosin <input type="checkbox"/> 2 = Woolard <input type="checkbox"/> 3 = Scott <input type="checkbox"/> 4 = Fowler <input type="checkbox"/> 5 = Macaluso <input checked="" type="checkbox"/> All </div>
AGENDA DATE	<i>April 14, 2020</i>
DESCRIPTION	APPROVE RESOLUTION 2020-__ AUTHORIZING THE CITY MANAGER TO CONTRACT WITH THE LOWER COLORADO RIVER AUTHORITY (LCRA) FOR 2019 TREE TRIMMING SERVICES ALONG THE CITY'S PRIMARY ELECTRIC DISTRIBUTION SYSTEM LINES.
STAFF'S RECOMMENDED ACTION (be specific)	Staff recommends the Council authorize the City Manager to contract with the Lower Colorado River Authority (LCRA) for 2020 tree trimming services along the City's Primary Electric Distribution Lines.
CONTACT PERSON	Michael Mann – Utilities Director
SUMMARY	<p>Many years ago, the City substantially increased tree trimming efforts along our electric distribution lines. These efforts have been vital to the significantly enhanced reliability of our system to maintain continuous power during or after severe weather events. The work also helps to eliminate nuisance outages during the remainder of the year as trees continue to grow and to eliminate impediments to troubleshooting other maintenance items that sometimes arise.</p> <p>Throughout the year, City personnel perform this work as time allows using our own equipment. We typically work in readily accessible areas. However, much of our system extends through less accessible routes where access is difficult or even hazardous. We typically use contractor forces to trim in these areas that require climbing of poles or the trees themselves to trim.</p> <p>We have had great success using a program managed by LCRA. LCRA manages a program in which they employ a single expert tree trimming firm throughout the year and allocate those services to the City of Boerne as requested. LCRA charges a five percent administrative fee, but we receive great value using the program as opposed to contracting with a firm on a one-time, short-term basis every year. Plus, LCRA provides written customer notification materials, handles customer complaints that may arise and manages crew personnel.</p> <p>The 2019-2020 fiscal year budget includes enough funding for this work. For a total cost of \$49,360.75 (which includes the above referenced administrative fee), LCRA will provide four weeks of intensive tree trimming services under their agreement with McCoy Tree Surgery. A copy of the proposed agreement is included for the</p>

	Council's review. Staff recommends the Council authorize the City Manager to execute this contract.
COST	\$49,360.75
SOURCE OF FUNDS	Electric Department Operating Fund
ADDITIONAL INFORMATION	Proposed LCRA Contract Enclosed – substantially the same as prior years

This summary is not meant to be all inclusive. Supporting documentation is attached.

RESOLUTION NO. 2020-R26

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
AND MANAGE AN AGREEMENT WITH MCCOY TREE SURGERY, INC.
THROUGH THE LOWER COLORADO RIVER AUTHORITY FOR TREE
TRIMMING SERVICES**

WHEREAS, the City of Boerne finds it necessary to enter into and manage an agreement for tree trimming services;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS:

that the City Council hereby authorizes the City Manager to enter into and manage an agreement with McCoy Tree Surgery, Inc. through the Lower Colorado River Authority for tree trimming services along the City's Primary Electric Distribution Lines in an amount not to exceed \$49,360.75.

PASSED and APPROVED on this the ____ day of April, 2020.

APPROVED:

Mayor

ATTEST:

City Secretary

**CUSTOMER
SERVICES CONTRACT**

CUSTOMER: City of Boerne
P.O. Box 1677
Boerne, Texas 78006
Attn: Mike Mann

DATE SUBMITTED: March 31, 2020

SCOPE OF SERVICES:

JOB NUMBER:

The Customer Services Department of the Lower Colorado River Authority ("LCRA") shall provide the Customer access to LCRA's tree trimming services contract (the "Agreement") with McCoy Tree Surgery ("McCoy"). The City will specify which lines McCoy is to clear prior to the start of work. McCoy will perform the tree trimming in accordance with the requirements of the City of Boerne Oak Wilt Prevention Ordinance.

LCRA will directly bill an administration fee on September 1, 2020 to the City to cover the scheduling and administering the program.
The fee is: \$2,350.51

See Attached Terms and Conditions.

SCHEDULE:

To be determined, but approximately 4 weeks trimming (Starting about August 24, 2020).

CONTRACT PRICE: Total Services Amount: \$ 49,360.75
Approximately: \$47,010.24 per year (direct charge from McCoy)
Administration fee: \$ 2,350.51
Per hour rates will depend on individual classification of each employee. (See attached rate schedule).
McCoy will bill Customer directly, on a weekly basis, and Customer will pay invoices directly to McCoy in accordance with the terms and conditions of the Agreement.

Customer and the Lower Colorado River Authority agree that the work described above shall be performed in accordance with the terms and conditions on the front and reverse (or attached) sides of this form.

City of Boerne

Lower Colorado River Authority

By: _____
Title: _____
Date: _____

By: _____
Title: Director, Business Development
Transmission Strategic Services
Date: _____

OFFICE USE ONLY

Accounting: _____ 0

Approved By: _____
Completion Date: _____

Personnel Level	Rates	1	Rate
Supervisor/General Foreperson	\$50.53	1 \$	50.53
Foreperson	\$40.00	1 \$	40.00
Trimmer	\$34.30	1 \$	34.30

Equipment			
Chain Saws (each)	\$ 0.92	0.9 \$	0.83
Bucket Truck with Chip bed	\$15.30	15 \$	229.50
Chipper	\$ 5.82	5.71 \$	33.23
GF PickUp	\$10.97	1 \$	10.97

Crew Rate (using Max Rates)

Supervisor/General Foreperson	\$50.53	1	\$	50.53
GF PickUp	\$10.97	1	\$	10.97
Foreperson	\$40.00	2	\$	80.00
Trimmer	\$34.30	4	\$	137.20
Chain Saws (each)	\$ 0.92	6	\$	5.52
Bucket Truck with Chip bed	\$15.30	2	\$	30.60
Chipper	\$ 5.82	2	\$	11.64

Total Hourly Crew Rate			\$	326.46
Total Weekly Crew Rate			\$	13,058.40
Total weeks	3.6		\$	47,010.24
Total Trimmers		7		

Includes per diem costs for Lodging and meals

Total (using max rates)		\$	47,010.24	Note: This is the estimated direct charge from McCoy
Average/week		\$	13,058.40	

Actual Charges according to the rate schedule will be billed.

LCRA will bill a user fee to cover the cost of scheduling and administering the program

This fee will be invoiced September 1, 2020

The charge is: \$ 2,350.51

Total (LCRA and McCoy)	\$	49,360.75	7 PERSON CREW
Total (LCRA and McCoy) weekly avg.	\$	13,711.32	

TERMS AND CONDITIONS

The Lower Colorado River Authority ("LCRA") will provide the Customer access to LCRA's tree trimming services contract (the "Agreement") with McCoy Tree Surgery ("McCoy").

LCRA will directly bill a fee to the City to cover the scheduling and administering the program.


The services under this Customer Services Contract are provided pursuant to the Technical Services Cooperation Agreement between LCRA and the City, dated December 17, 1979 and under the authority of Chapter 791 of the Texas Government Code, Chapter 271, Subchapter F of the

Texas Local Government Code, and in furtherance of LCRA's statutory and constitutional authority to provide electric utility services. The purpose of this Customer Services Contract is to increase the reliability of electric service within Customer's service territory, and to realize savings and efficiencies by cooperatively procuring services.

Customer will purchase services from McCoy under the same terms and conditions and pricing contained in the Agreement. All orders and payments for such purchases will be issued directly from Customer to McCoy, and McCoy will provide the services and associated invoices directly to Customer. LCRA is not a party to, and will in no way be responsible to either Customer or McCoy for, such orders, including without limitation any payments, performance, costs, expenses, losses or damages arising from such transactions between McCoy and Customer. Customer releases LCRA from any liability associated with Customer's transactions under the Agreement.


Customer represents that (i) all payments made pursuant to this Customer Services Contract will be paid from current revenues and (ii) it has the authority to enter into this Customer Services Contract.



	<div style="text-align: center;">AGENDA ITEM SUMMARY</div> <div style="border: 1px dashed purple; padding: 5px; float: right; margin-top: 10px;"> District Impacted <input type="checkbox"/> 1 = Wolosin <input type="checkbox"/> 2 = Woolard <input type="checkbox"/> 3 = Scott <input type="checkbox"/> 4 = Fowler <input type="checkbox"/> 5 = Macaluso <input checked="" type="checkbox"/> All </div>
AGENDA DATE	<i>April 14, 2020</i>
DESCRIPTION	<p>DISCUSSION OF ANY MATTERS RELATED TO COVID-19 STATE OF DISASTER AND PUBLIC HEALTH EMERGENCY AND CONSIDER ORDINANCE NO. 2020-10; AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS CONTINUING DECLARATION OF STATE OF LOCAL DISASTER AND PUBLIC HEALTH EMERGENCY TO APRIL 30, 2020; ADOPTING THE PREVIOUS DECLARATIONS OF MAYOR HANDREN; PROVIDING PROMPT AND GENERAL PUBLICITY; GRANTING THE MAYOR THE POWER AND AUTHORITY TO REVIEW, ADOPT, RATIFY, AND EXECUTE SUBSEQUENT EMERGENCY ORDERS ON BEHALF OF THE CITY COUNCIL; SUSPENDING THE APPLICABILITY OF THE REQUIREMENTS OF THE PUBLIC INFORMATION ACT DUE TO CATASTROPHE; AND PROVIDING AN EFFECTIVE DATE.</p>
STAFF'S RECOMMENDED ACTION (be specific)	<p>Approve Or Deny Ordinance No. 2020-10; Continuing Declaration Of State Local Disaster And Public Health Emergency to April 30, 2020; Adopting The Previous Declarations Of Mayor Handren; Providing Prompt And General Publicity; Granting The Mayor The Power And Authority To Review, Adopt, Ratify, And Execute Subsequent Emergency Orders On Behalf Of City Council; Suspending The Applicability Of The Requirements Of The Public Information Act Due To Catastrophe; And Providing An Effective Date.</p>
CONTACT PERSON	Barbara Quirk, City Attorney
SUMMARY	<p>On March 24, 2020, this Council continued the Declarations of State of Disaster and Public Health Emergency issued by Mayor Handren and all related orders through April 23, 2020. On March 25, 2020, Mayor Handren amended his declaration and orders to reflect the orders of the City Council. On March 31, 2020, the Governor of Texas issued Executive Order GA14 related to the COVID-19 disaster, to remain in effect until April 30, 2020. GA14 orders all Texans to minimize contact with other individuals not within the persons household, except as necessary to provide or receive essential services. Homeland Security's list of essential services (Version 2) is attached to the Governor's Order, which expands the types of businesses which may be essential services. The Governor also suspended local authority to pass orders inconsistent with the Governor's Order. On April 1, 2020, Mayor Handren amended his declaration and orders to be consistent with the Governor's Orders. Council now needs to extend the state of disaster and orders to April 30, 2020.</p>

COST	
SOURCE OF FUNDS	
ADDITIONAL INFORMATION	Ordinance

This summary is not meant to be all inclusive. Supporting documentation is attached.

	<div style="text-align: center;">AGENDA ITEM SUMMARY</div> <div style="border: 1px dashed purple; padding: 5px; margin-top: 10px;"> District Impacted <input type="checkbox"/> 1 = Wolosin <input type="checkbox"/> 2 = Woolard <input checked="" type="checkbox"/> 3 = Scott <input type="checkbox"/> 4 = Fowler <input type="checkbox"/> 5 = Macaluso All </div>
AGENDA DATE	<i>April 14, 2020</i>
DESCRIPTION	<p>CONSIDER RESOLUTION NO. 2020-R27; A RESOLUTION RESCINDING RESOLUTION 2020-R21, AUTHORIZING THE CITY MANAGER TO ENTER INTO AND MANAGE AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BETWEEN THE CITY OF BOERNE, TEXAS AND GUY SANDERS FOR 153 SOUTH MAIN; AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AND MANAGE A NEW ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BETWEEN THE CITY OF BOERNE, TEXAS AND GUY SANDERS FOR 153 S MAIN FOR ECONOMIC DEVELOPMENT ACTIVITIES.</p>
STAFF'S RECOMMENDED ACTION (be specific)	<p>Approve Resolution NO. 2020-R27; A Resolution Rescinding Resolution 2020-R21, Authorizing The City Manager To Enter Into And Manage An Economic Development Incentive Agreement Between The City Of Boerne, Texas And Guy Sanders For 153 South Main; And Authorizing The City Manager To Enter Into And Manage A New Economic Development Incentive Agreement Between The City Of Boerne, Texas And Guy Sanders For 153 S Main For Economic Development Activities.</p>
CONTACT PERSON	<p>NICHOLAS MONTAGNO, ECONOMIC DEVELOPMENT DIRECTOR & JEFF THOMPSON, DEPUTY CITY MANAGER & GENERAL MANAGER OF UTILITIES</p>
SUMMARY	<p>Per discussion and direction from City Council at the March 10th, 2020 meeting, staff sent the Council approved contract to Mr. Sanders for signature. Shortly after staff sent the contract for signature, the COVID-19 pandemic began to significantly impact the area and local business. Mr. Sanders, understandably, has been working on maintaining his new building and the businesses within ever since. However, given the original proposed agreement provisions and current circumstances, the following Developer obligations (should the contract remain as is) would immediately default the contract:</p> <p style="padding-left: 40px;">1.01.1 Increased sales taxes for businesses on the Property. DEVELOPER will develop and attract additional businesses on the Property which produce an increase in annual taxable sales of at least \$500,000.00 for the term of this Agreement. Developer shall provide the City with the correct business names of businesses</p>

	<p>on the Property and all other information requested by the City for purposes of determining the taxable sales amounts.</p> <p>1.01.2 Increased jobs. DEVELOPER shall develop and attract businesses to the Property which shall provide at least 10 additional full-time jobs, the number of jobs being maintained at or above the required number for the term of this Agreement. DEVELOPER shall provide the City with all information requested by the City for purposes of calculating the number of full-time jobs existing at the site at any given time during the term of this Agreement.</p> <p>It would be staff's recommendation that the two listed Developer obligations be struck from the agreement Council approved on March 10th, 2020 and the agreement be re-approved as shown in the attached agreement proposal.</p>
COST	
SOURCE OF FUNDS	
ADDITIONAL INFORMATION	Economic Development Incentive Agreement

This summary is not meant to be all inclusive. Supporting documentation is attached.

RESOLUTION NO. 2020-R27

A RESOLUTION RESCINDING RESOLUTION 2020-R21, AUTHORIZING THE CITY MANAGER TO ENTER INTO AND MANAGE AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BETWEEN THE CITY OF BOERNE, TEXAS AND GUY SANDERS FOR 153 SOUTH MAIN; AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AND MANAGE A NEW ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BETWEEN THE CITY OF BOERNE, TEXAS AND GUY SANDERS FOR 153 S MAIN FOR ECONOMIC DEVELOPMENT ACTIVITIES

WHEREAS, the City Council of the City of Boerne previously authorized the City Manager to enter into and manage an economic development incentive agreement with Guy Sanders for 153 S. Main; and

WHEREAS, after that authorization, but before the agreement was executed the COVID-19 Public Health Emergency and Disaster was declared in the City of Boerne, greatly changing the economic outlook for businesses in the City, including the businesses at 153 S. Main; and

WHEREAS, the City of Boerne now finds it necessary to rescind the original authorizing resolution and authorize a new Economic Development Incentive Agreement with different terms for the additional public purpose of retaining businesses in the City during this disaster; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS:

Section 1. The City Council finds that 153 South Main meets the following priorities for Economic Development incentives outlined in the City of Boerne Incentive Policy and meets the additional public purpose of retaining businesses in the City during the COVID-19 disaster:

- 1) Locations where new development brings about enhancement of Public Infrastructure.
- 2) Redevelopment of aged or under-performing business areas.
- 3) Businesses and improvements which enhance the Downtown, Hill Country Mile, and Historic District

Section 2. That the City Council hereby authorizes the City Manager to enter into and manage a new Economic Development Incentive Agreement with Guy Sanders for 153 South Main for a reimbursement amount up to \$76,172.85.

PASSED and APPROVED on this the ____ day of April, 2020.

APPROVED:

Mayor

ATTEST:

City Secretary

**ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BETWEEN
THE CITY OF BOERNE, TEXAS, AND GUY SANDERS**

The purpose of this ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT (“this Agreement”) is to provide an indication of support for a project located at 153 S. Main St., Boerne, Texas 78006 by Guy Sanders (“DEVELOPER”) within the city limits of the CITY OF BOERNE, a Texas home rule municipality (“the City”) (collectively referred to as the “Parties”).

WHEREAS, DEVELOPER is an individual doing business in the City of Boerne with his primary place of business at 153 S. Main in Boerne, Kendall County, Texas (the “Property”);

WHEREAS, the electric infrastructure previously existing in this area of S. Main Street and adjacent to the Property has not been adequate in the past to meet the requirements for expansion of businesses on the Property or for other businesses wishing to locate in the area in order to meet the requirements of the electric code adopted by the City;

WHEREAS, DEVELOPER has undertaken a project at or near 153 S. Main Street in the City of Boerne, Kendall County, Texas for the purpose of expanding and adding business establishments at the Property and replacing, renovating and upgrading the electric infrastructure on the Property, increasing the capacity of the electric infrastructure beyond what is needed for the Property, such that it will allow for increased electric service and consequentially, increase the desirability to businesses of other properties in the area;

WHEREAS, the City believes that the Project, and the provision of increased access to electric service, on the Property and beyond, will draw job producing businesses to the area and otherwise benefit the City, its residents and the surrounding community and will be an asset to same;

WHEREAS, it would be in the best interest of all Parties to enter into an agreement for the Project on the Property;

WHEREAS, the City desires to provide, pursuant to Chapter 380 of the Texas Local Government Code and in accordance with the City’s incentive policy, an incentive to DEVELOPER for development of the Project;

WHEREAS, the City has the authority under Chapter 380 to make loans and grants of public money for the purposes of promoting local economic development and stimulating business and commercial activity;

WHEREAS, the City has determined that a grant of funds of the municipality to DEVELOPER for the Project will serve the public purpose of promoting local economic development and enhancing business and commercial activity within the City;

WHEREAS, the City and DEVELOPER agree that development of the Project will encourage increased economic development in the City, will provide increases in the City’s tax revenues and improve the City’s ability to provide for the health, safety and welfare of its citizens;

WHEREAS, the City has concluded and hereby finds that this Agreement clearly promotes economic development in the City and, as such, meets the requisites under Chapter 380, and further is in the best interests of the City and DEVELOPER; and

WHEREAS, the City has concluded and hereby finds that this Agreement clearly promotes economic development in the City and, as such, meets the requirements of Article III, Section 52-a of the Texas Constitution by assisting in the development and diversification of the economy of the State of Texas, by eliminating unemployment or underemployment in the state, and by the development or expansion of commerce within the State of Texas.

NOW THEREFORE, in consideration of the mutual benefits described in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and DEVELOPER agree as follows:

Section I

The Understanding

1.01 Purpose. The above recitals are incorporated as if fully set forth herein. The purpose of this Agreement is to provide the terms, conditions, and responsibilities of DEVELOPER and the City for construction of the Project on the Property.

1.02 Authority. The City's execution of this Agreement is authorized by Chapter 380 of the Texas Local Government Code and by City Resolution No. _____. This Agreement constitutes a valid and binding obligation on the Parties, subject to conditions precedent as stated herein. The Parties acknowledge that DEVELOPER is acting in reliance upon the other Party's performance of the obligations under this Agreement in making the decision to commit substantial resources and money to development of the Property and completion of the Project.

1.03 DEVELOPER Obligations.

1.03.1 Construction of the Project. DEVELOPER will proceed with reasonable commercial diligence to complete the Project on the Property by December 31, 2020. Time is of the essence for this Agreement and should the Project delineated in this Agreement not be completed by close of business on this date, then the default provisions set forth in Section II shall apply.

1.03.2 Cumulative Construction Costs. DEVELOPER will complete the Project on the Property with a cumulative cost or value incurred greater than or equal to One Million dollars (\$1,000,000.00). Such amount includes the costs associated with construction, infrastructure expenses, furniture, fixtures, and equipment associated with the Project. The Company shall maintain commercially reasonable detailed and accurate records of all contracts, receipts and expenditures made or incurred in connection with the construction of the Project on the Property and shall make same available to the City for inspection with reasonable notice of such inspection.

1.03.3 Costs Responsibility. DEVELOPER will remain wholly responsible for the cost and expenses associated with the Project.

1.03.4 Fees Responsibility. DEVELOPER will remain wholly responsible for the cost, expense and acquisition of all permits, meter fees, impact fees and any other City related service fees associated with the Project.

1.03.5 City of Boerne Access. DEVELOPER agrees to allow the City to enter the construction site throughout the construction of the Project to monitor its progression.

- 1.03.6** *Applicable Regulations.* Notwithstanding the terms set forth in this Agreement, DEVELOPER will remain subject to and shall comply with all applicable laws, statutes, regulations and ordinances as currently exist or as may be amended from time to time.
- 1.03.7** *Maximum Total Reimbursement Amount (“MTRA”).* The total reimbursement amount is set at seventy-six thousand one hundred and seventy-two dollars and eighty-five cents (\$76,172.85) for all Chapter 380 Payments and Incentives described within this Agreement. Once this amount is reached, the City is under no further obligation under this Agreement and the Agreement terminates as a matter of law.
- 1.03.8** *Undocumented Workers.* During the Term of this Agreement, DEVELOPER agrees not to knowingly employ any undocumented workers and if convicted of a violation under 8 U.S.C. § 1324a(f), DEVELOPER shall repay the City for all funds that may be received by the DEVELOPER from the City as of the date of such violation, such payment being due within 120 business days after the date the City is notified by the DEVELOPER of such violation, with interest at the City’s weighted average yield of its investment portfolio from the date the Chapter 380 Payment was made to DEVELOPER to the date of the repayment. In no event shall any provision hereof be deemed to have waived any defense the DEVELOPER may have to any allegation of a violation of 8 U.S.C. § 1324a(f).
- 1.03.9** *Certified Compliance.* Within thirty (30) days following a written request, DEVELOPER will provide to the City a letter certifying that they are in compliance with this Agreement.
- 1.03.10** *Warranties.* The DEVELOPER makes the following warranties:
- 1.03.10.1** DEVELOPER is authorized to do business and is in good standing in the State of Texas and shall remain in good standing in the State of Texas during the term of this Agreement.
 - 1.03.10.2** DEVELOPER is not involved in any litigation or governmental proceeding, nor has any such proceeding been threatened against DEVELOPER, that may result in any material adverse change in DEVELOPER’ business, properties or operation.
 - 1.03.10.3** There are no bankruptcy proceedings or other proceedings currently pending or contemplated, and DEVELOPER has not been informed of any potential involuntary bankruptcy proceedings.

1.04 City Obligations.

- 1.04.1** *Grant.* Subject to the conditions set forth in this Agreement, the City agrees to provide developer with a grant up to the MTRA as described in 1.03.10 above as partial reimbursement for DEVELOPER’s costs for the Project, to be distributed to DEVELOPER in the form of a monthly credit to DEVELOPER’s electric bill from the City. The monthly credit shall not exceed each month’s balance due to the City for electric service received by DEVELOPER.
- 1.04.2** *Cessation of ownership or business.* The City’s obligation hereunder is subject to the continued ownership of the Property by Guy Sanders and the continuous operation of business on the Property.

Section II

Termination

This Agreement shall terminate automatically on the occurrence of one of the following:

- 2.01 Seventh Anniversary** - The seventh anniversary of the date this Agreement is signed by both Parties;
- 2.02 Achievement of Purpose** - Once the purpose of this Agreement has been achieved and all amounts due have been paid;
- 2.03 Misrepresentation** - If any representation or warranty made by DEVELOPER herein or relied upon by the City in entering this Agreement is determined by the City to have been false or misleading in any material respect when made or when deemed made or repeated following notice and mediation as set out in Section 2.09 below;
- 2.04 Default** - If DEVELOPER fails to perform any material covenant or obligation set forth in this Agreement if such failure is not remedied within three (3) Business Days following notice and mediation as set out in Section 2.09 below;
- 2.05 Bankruptcy** - If DEVELOPER becomes Bankrupt;
- 2.06 Lack of Available Funds.** If funds are not appropriated by the City Council for any fiscal year of this Agreement due to lack of available funds the City shall notify DEVELOPER of the date of termination in writing and this Agreement and all obligations of the Parties shall terminate at the end of the then current fiscal year;
or
- 2.07 Sale of Property.** In the event Guy Sanders sells or otherwise transfers his interest in the Property to a third party.

2.08 Credits and application of credits to utility bill cease upon termination. Should this Agreement be terminated for any reason, the City's obligations hereunder shall cease and no further credits will be applied to Guy Sander's electric account for this Agreement. Any remaining unused credit placed on the account pursuant to this Agreement shall be refunded to the City.

2.09 Notice, mediation, and claw-back. Should the City wish to terminate this Agreement pursuant to Section 2.03 or 2.04, the City shall send written notice to DEVELOPER of the intent to terminate, including the nature of the misrepresentation or default alleged by the City and any claw-back amount being claimed by the City ("the Notice"). The Notice shall be sent by Certified Mail, Return Receipt Requested and will be considered delivered upon deposit of the Notice in the United States Mail. Upon delivery of the Notice, the City will suspend all pending credits and payments to Guy Sanders until such time as any requested mediation, if any, has occurred and a final determination has been made by the City regarding whether the alleged misrepresentation or default occurred and the amount of any claw-back owed to the City. Upon receipt of the Notice, DEVELOPER may request mediation with the City by providing written notice of intent to mediate to the City within ten business days of the date the notice was received. If mediation is timely requested, the Parties shall agree upon a mediator and participate in mediation within 90 days of the date the Notice is received by DEVELOPER. Following mediation, or if no mediation is held, within 91 days of the date the Notice is received by DEVELOPER, the City shall provide DEVELOPER with its final determination on this matter in writing, delivered by Certified Mail, Return Receipt Requested. If the final decision of the City is to terminate this Agreement, the Agreement will terminate immediately upon delivery of the final determination letter by the City. Upon such termination, DEVELOPER will be required to reimburse the City for the full amount of credits made to DEVELOPER's electric account by

the City over the term of this Agreement, less any financial benefit received by the City prior to the termination of the Agreement, as determined by the City.

Section III **Amendments**

No amendment, modification or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement and duly authorized by each Party's representative. Amendments may be made due to changes in the character of the work, the terms of the Agreement, or the respective responsibilities of the Parties. Amendments shall be enacted through a mutually agreed upon written instrument and signed by the authorized representative of each Party.

Section IV **Designated Contact Person**

- 4.01** The following individuals are designated as the contact person/representative for the respective Parties:

City of Boerne
Attn: City Manager.
P.O. Box 1677
447 N. Main Street
Boerne, Texas 78006

DEVELOPER
Guy Sanders
153 S. Main St.
Boerne, Texas 78006

- 4.02** For purposes of this Agreement, all communications and notices between the Parties shall be directed to the designated contact person/representative of the Parties and shall be deemed sufficient if in writing and hand delivered or mailed, registered or certified mail, postage prepaid, to the above listed addresses. All notices and information required to be given under this Agreement shall be given in writing and shall be effective when hand-delivered or on the 3rd day after being deposited in the United States mail, registered or certified mail, postage prepaid and addressed to the Party to whom the notice is to be given at the addresses shown herein.
- 4.03** Notice of change of the designated representative and/or the address of such representative by either Party must be made in writing and delivered to the other Party's last known address within five (5) business days of such change.

Section V **Indemnification**

TO THE FULLEST EXTENT PERMITTED BY LAWS AND REGULATIONS, DEVELOPER SHALL INDEMNIFY AND HOLD HARMLESS, CITY AND ELECTED OFFICIALS, OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AND AGENTS FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, AND LOSSES, (INCLUDING BUT NOT LIMITED

TO FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS), ARISING OUT OF, RESULTING FROM OR RELATED TO DEVELOPER' ACTIVITIES UNDER THIS AGREEMENT, PROVIDED THAT ANY SUCH CLAIM, COST, LOSS, OR DAMAGE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE, OR DEATH, OR INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (OTHER THAN THE WORK ITSELF), INCLUDING THE LOSS OF USE RESULTING THEREFROM BUT ONLY TO THE EXTENT CAUSED BY ANY NEGLIGENT ACT OR OMISSION OF DEVELOPER, ANY SUBCONTRACTOR, ANY SUPPLIER, OR ANY INDIVIDUAL OR ENTITY DIRECTLY OR INDIRECTLY EMPLOYED BY ANY ONE OR MORE OF THEM TO PERFORM ANY WORK PURSUANT TO THIS AGREEMENT OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE. CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. DEVELOPER SHALL PROMPTLY ADVISE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST CITY RELATED TO OR ARISING OUT OF DEVELOPER' ACTIVITIES IN PERFORMANCE OF ANY WORK HEREUNDER AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT DEVELOPER' COST. CITY SHALL HAVE THE RIGHT, AT ITS OPTION AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING DEVELOPER OF ANY OBLIGATIONS UNDER THIS PARAGRAPH.

Section VI **Terms and Conditions**

- 6.01** The construction and validity of this Agreement shall be governed by the laws of the State of Texas. Venue for any legal action commenced hereunder shall be in a court of appropriate jurisdiction in Kendall County, Texas.
- 6.02** In the event any portion of this Agreement is deemed illegal, invalid or unenforceable, then the remainder of this Agreement shall not in any way be affected thereby and may be enforced to the greatest extent permitted by applicable law.
- 6.03** It is expressly understood and agreed that this Agreement was jointly drafted by the Parties with the assistance of legal counsel selected by each of the Parties. Accordingly, the Parties hereby agree that all rules of construction to the effect that ambiguity is construed against the drafting party shall be inapplicable in any dispute concerning the terms, meaning or interpretation of this Agreement.
- 6.04** This Agreement, including the Recitals, which are material provisions of the Agreement, constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersedes any prior understandings or written or oral agreements between the Parties concerning the subject matter of this Agreement. However, this Agreement: (i) is not in any manner to be considered a waiver by the Parties of any requirement contained in the City's Ordinances and/or Development Requirements; (ii) will not and does not conflict with the City's Ordinances and/or Development Requirements and in the event of such a conflict the terms of the City's Ordinances and/or Development Requirements control; and (iii) does not modify any of the City's Ordinances and/or Development Requirements. Where silent in this Agreement, the terms of City's Ordinances and/or Development Requirements shall control.


- 6.05** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute a single agreement.
- 6.06** Each Party represents to the other Party that the individual signing this Agreement has the authority to bind that Party to the obligations set forth herein.
- 6.07** Nothing herein shall be deemed to create any relationship of agency or partnership between the Parties.

Executed in duplicate originals, each of which shall have the full force and effect of an original, on this _____ DAY OF _____ 2020.

CITY OF BOERNE,

BY: _____
RON BOWMAN

GUY SANDERS,

	<div style="text-align: center;">AGENDA ITEM SUMMARY</div> <div style="border: 1px dashed purple; padding: 5px; float: right;"> District Impacted <input type="checkbox"/> 1 = Wolosin <input type="checkbox"/> 2 = Woolard <input type="checkbox"/> 3 = Scott <input type="checkbox"/> 4 = Fowler <input type="checkbox"/> 5 = Macaluso <input checked="" type="checkbox"/> All </div>
AGENDA DATE	APRIL 14, 2020
DESCRIPTION	DISCUSSION OF FINANCIAL STABILITY OF THE CITY AND POSSIBLE ACTION RELATED TO BUSINESS RETENTION.
STAFF'S RECOMMENDED ACTION (be specific)	NO ACTION AT THIS TIME
CONTACT PERSON	Ronald C. Bowman, City Manager; Jeff Thompson, Deputy City Manager & General Manager of Utilities; Sandy Mattick, Finance Director
SUMMARY	<p>The City's finances are "<u>Strong</u>" and in a "<u>Great</u>" position as we begin to react to the COVID-19 health and financial disaster. The Finance Director, Assistant Director, City Manager and Deputy City Manager have been working to present the City's short- and longer-term financial position under unprecedented conditions and with great uncertainty. The good news is that the City's decades long history of prudent financial management and creation of reserve funds for any unforeseen emergency have positioned Boerne well as we begin to weather the financial storm that is upon us. We have been working to determine how to construct a reasonable best estimate of the short- and long-term financial implications of the pandemic disaster. Clearly the effects are far-reaching and will impact the City's revenues on many fronts.</p> <p>Attached is a spreadsheet that Finance has created as a first assessment of potential negative revenue impacts. At this time, there is no clear guidance from the federal or state level as to what those might be. We have contacts with other cities and utilities and used information from those interactions to help create this document. We intend for it to be conservative; not necessarily a worst-case scenario but erring on that side of the equation with so little information currently available.</p> <p>What we do know is that the first cycle of utility billings (about 1,700 bills) that have reached delinquent stage has gone up from the norm of 300 accounts past due to 350. The next cycle will be the first that is totally within the COVID crisis timeframe.</p> <p>Finance staff and I went through each line item of revenue to the City and arrived at an estimate that included several aspects of potential loss. For example, utility sales were decreased as we expect people to</p>

	<p>attempt to conserve with their personal finances tightening and we also increased delinquent payments and potential charge offs as payments are deferred or eventually not paid at all. The most clear and calculable loss of revenue, at least in the near-term, is Hotel-Motel Taxes which fully fund the Convention and Visitors Bureau operations. It is the hardest hit due to the single revenue source which hotel occupancy statistics show will be reduced by 70-80%. Ad Valorem tax revenue on the other hand will not be impacted greatly in this budget year since 96% had already been collected. We will not reach the normal collection rate of 98.5% however and have accounted for that.</p> <p>The spreadsheet shows the expected monthly deficit by category (column 3) for Ad Valorem and Sales Tax Funds and for Utilities Funds for the 7 remaining months of FY 2020. This number is the difference between the projected loss of revenues (column 2) and the cuts to the budget which we are amassing to offset those losses such as the deferral of the Phase II sidewalk projects (\$515,000) discussed at the last Council meeting. We have also begun staff reallocation to address current business needs during the disaster response stage.</p> <p>While the projected monthly fund usage is substantial and is just now beginning to be realized, comparison to the Unreserved Fund Balance for each fund (column 6) indicates that there is no imminent danger to the City to implement this plan for Q3 2020 (April through June) and begin to re-assess the plan in early June. At that time, we will be able to better estimate lost revenues, bad debt, and hopefully a potential lessening of the economic disaster.</p> <p>A vast majority of our staff are highly trained for their professional specialty such as Police, Fire, Utilities, Planning, Engineering, Finance, Accounting, Parks, Library, CVB, IT and so on. Even the majority of entry level positions at the City require many months of training to be full contributors to the varied missions carried out in City operations on a daily basis. The worst scenario for the City would be to have massive layoffs that would cripple our ability to successfully rebound during the rebuilding stage of the disaster.</p> <p>With that said, we can and will implement prudent measures to ensure the financial integrity of the City as a whole and prioritize essential functions. A hiring and pay increase freeze are already in effect. Other tools at our disposal which the City Manager has implemented include budget cuts, delay of capital projects, cancellation of contracts, performing tasks in house versus with consultants, training/conference/travel elimination, employee reassignments, and elimination of overtime. Eventually other</p>
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	<p>measures including reduction in service levels, voluntary retirements, pay reductions, reduction in work hours, elimination of positions, furloughs and layoffs may be necessary. We will be in a much better position to assess that in 60 days (mid-June) than at present subject to the ever-changing financial environment brought on by the disaster. If needed, the proposed Q3 plan can be immediately modified to reflect new or worsening conditions. Our strong financial position and reserves will afford this opportunity to react on a more informed basis.</p> <p>We will review cost containment measures in more detail at the City Council meeting as well as provide updates on other measures taken or proposed to improve the financial health of the overall community. Some could require City Council action which is allowed based on the wording of the agenda item.</p>
COST	
SOURCE OF FUNDS	
ADDITIONAL INFORMATION	Spreadsheet

This summary is not meant to be all inclusive. Supporting documentation is attached.

	FY 2020 Budgeted Fund Balance Use	Projected loss of Revenues	Reduction in budgeted Expenses	Monthly Fund Balance Use		Fund Balance Available 10/1/2019	
						Target Reserve Fund Balance	Unreserved Fund Balance
General Fund	1,124,879	2,248,223	1,195,604	\$ 311,071		6,624,490	5,724,292
Hotel/Motel	-	331,505	213,576	\$ 16,847		177,375	101,433
Parks	-	343,154	244,019	\$ 14,162		554,144	1,463,419
Library	-	25,575	24,645	\$ 133		366,622	65,311
Cemetery	-	9,416	-	\$ 1,345		23,688	435,336
Electric	-	2,724,468	1,221,882	\$ 214,655		4,943,919	3,510,398
Water	50,000	808,386	342,803	\$ 73,655		1,279,991	4,441,800
Wastewater	300,000	489,745	397,121	\$ 56,089		1,354,277	4,610,521
Gas	45,000	364,999	125,160	\$ 40,691		419,370	192,155
Solid Waste	-	63,330	-	\$ 9,047		225,766	308,928