City of Austin Determination for the LGC to Authorize City Contracts

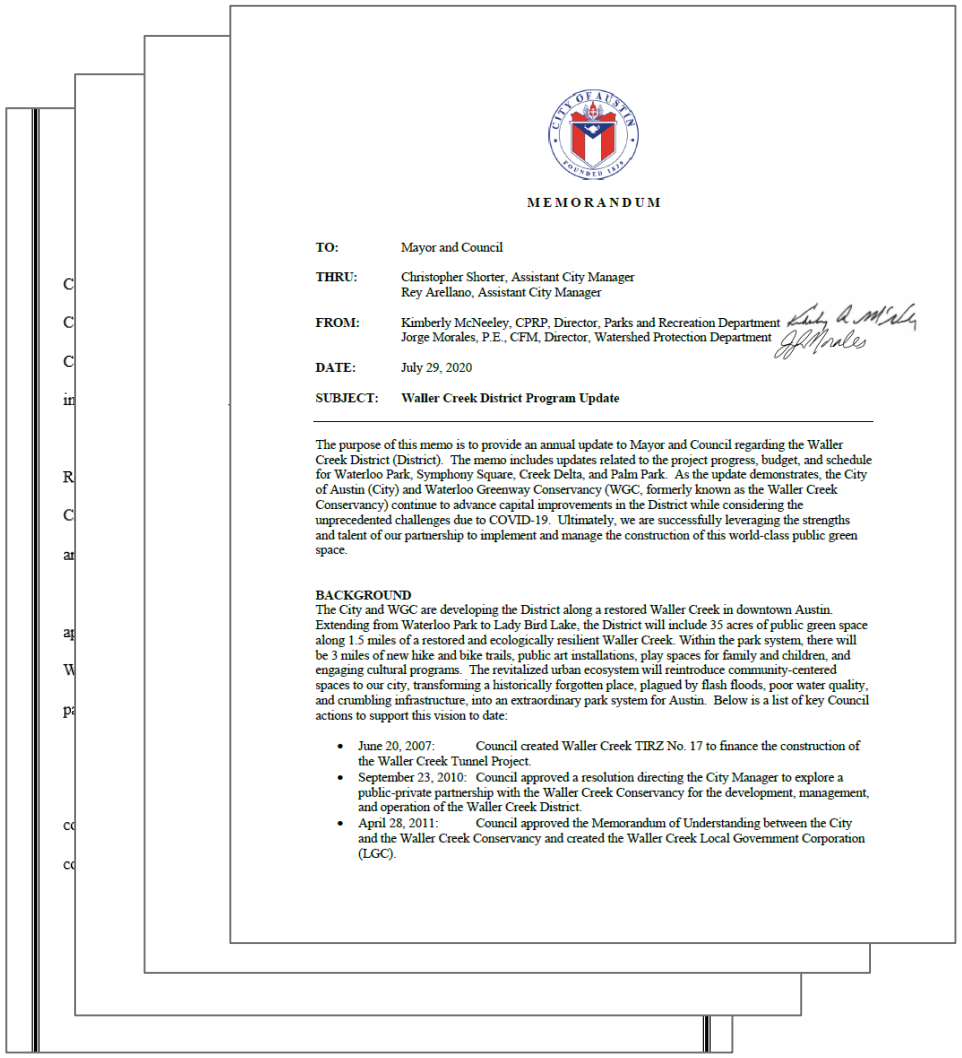
Waller Creek Local Government Corporation Meeting | August 7, 2020

PURPOSE OF PROPOSED COUNCIL ACTION

Authorize LGC to make procurement determinations (alternative project delivery methods such as Construction Manager-at-Risk, Competitive Sealed Proposal, Design-Build)

Authorize the LGC to negotiate, award and execute City contracts necessary for the design and construction of the projects within the Waller Creek District

SUPPORTING DOCUMENTS



MEMORANDUM

TO: Mayor and Council

THRU: Christopher Shorter, Assistant City Manager
Rey Arellano, Assistant City Manager

FROM: Kimberly McNeeley, CPRP, Director, Parks and Recreation Department
Jorge Morales, P.E., CFM, Director, Watershed Protection Department

DATE: July 29, 2020

SUBJECT: **Waller Creek District Program Update**

The purpose of this memo is to provide an annual update to Mayor and Council regarding the Waller Creek District (District). The memo includes updates related to the project progress, budget, and schedule for Waterloo Park, Symphony Square, Creek Delta, and Palm Park. As the update demonstrates, the City of Austin (City) and Waterloo Greenway Conservancy (WGC, formerly known as the Waller Creek Conservancy) continue to advance capital improvements in the District while considering the unprecedented challenges due to COVID-19. Ultimately, we are successfully leveraging the strengths and talent of our partnership to implement and manage the construction of this world-class public green space.

BACKGROUND
The City and WGC are developing the District along a restored Waller Creek in downtown Austin. Extending from Waterloo Park to Lady Bird Lake, the District will include 35 acres of public green space along 1.5 miles of a restored and ecologically resilient Waller Creek. Within the park system, there will be 3 miles of new hike and bike trails, public art installations, play spaces for family and children, and engaging cultural programs. The revitalized urban ecosystem will reintroduce community-centered spaces to our city, transforming a historically forgotten place, plagued by flash floods, poor water quality, and crumbling infrastructure, into an extraordinary park system for Austin. Below is a list of key Council actions to support this vision to date:

- June 20, 2007: Council created Waller Creek TIRZ No. 17 to finance the construction of the Waller Creek Tunnel Project.
- September 23, 2010: Council approved a resolution directing the City Manager to explore a public-private partnership with the Waller Creek Conservancy for the development, management, and operation of the Waller Creek District.
- April 28, 2011: Council approved the Memorandum of Understanding between the City and the Waller Creek Conservancy and created the Waller Creek Local Government Corporation (LGC).

- **Council Memo | Waller Creek District Program Update (Completed)** Update provided to Mayor and Council July 2020

- **LGC Memo | Departmental Support for Council Delegation of Authority to the Waller LGC for City Contracts (Completed)**

- **RCA 20-2504 (Draft distributed to LGC)**
  Draft Request for Council Action (RCA) will be considered by Council at the August 27th meeting.

- **Resolution 20-2504 (Draft distributed to LGC)**
  Draft Resolution will be considered by Council at the August 27th meeting.

- **Boards and Commission Recommendation (Pending LGC Action)**
  Recommendation is titled ‘Waller Creek Local Government Corporation Recommendation’. Recommendation pending LGC action at the August 7th meeting.

LGC QUESTIONS

1. How typical is this request? Have other local government corporations been granted this authority by Austin City Council?

2. What will be the practical process for how the duties of the LGC will be altered? How will this work if the authority is granted?

3. What are the expected changes that will be made to the JDA based on this authority? What is the timeline to ensure that step is completed as expeditiously as possible?

LGC QUESTION #1

- How typical is this request? Have other local government corporations been granted this authority by Austin City Council?

  This action is unique to Austin's LGC's at this time. The goal is for this process to be both transparent and functional, so that it can be a model if needed for future LGCs.

LGC QUESTION #2

- What will be the practical process for how the duties of the LGC will be altered? How will this work if the authority is granted?

  Essentially, the LGC's process will not change – staff will incorporate the necessary Requests for Action (RFA) into the Phase Plan Process that will allow CCO to proceed using an integrated workflow

PROCESS DIFFERENCES

- In general, for City CIP Approvals, Council approves actions to occur in the future
  - For alternative delivery methods (design-build, CMAR, CSP), Council Approval of construction methodology allows for solicitation/advertisement to occur
  - Council Approval of selected consultant/contractor allows for contract to be negotiated

- In general, for LGC Phase Plan Approvals, LGC approves scopes of work that are ready for Notices-to-Proceed (NTP)
  - Contracts for the work included in phase plans – proposals, costs, schedule for the work to occur, contracts are negotiated and ready for execution, NTP is essentially issued immediately after approval

PHASE PLAN PROCESS – DEFINED BY JDA

CONSERVANCY as MANAGING PARTY: PROCESS REPEATED WITH EACH PHASE OF PROJECT – SD, DD, CD+BIDDING, CONSTRUCTION

Waterloo Greenway Conservancy

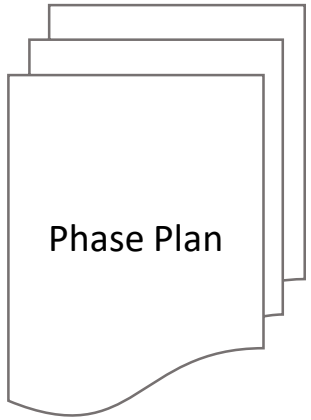
MANAGING PARTY

Draft, Revise, Finalize

Review, Respond

RESPONDING PARTY

City of Austin



PHASE PLAN INCLUDES (as applicable):

- Executive Summary
- Schedule w/ projected completion
- Project Map
- Team Identification
- Implementation Plan + Scopes of Work
- Design Criteria/Material
- Project Budget w/ funding sources
- Cost Overrun Funding
- Requirements for Use of Funds
- Capital Needs Timing
- Compliance with Foundational Articles
- Any Third-Party Agreements
- Procurement Process Requirements
- Proposed Construction Delivery Method
- MWBE Plan (if using City funds)
- Insurance + Bonding
- Easements + Real Property Interests
- License Agreements for Naming Rights
- Operations + Maintenance Plan w/ funding
- Maintenance in ROWs
- Utilities Cost + Metering
- Payments to COA for operations
- Revenue Source + Fees, Activities + Rates

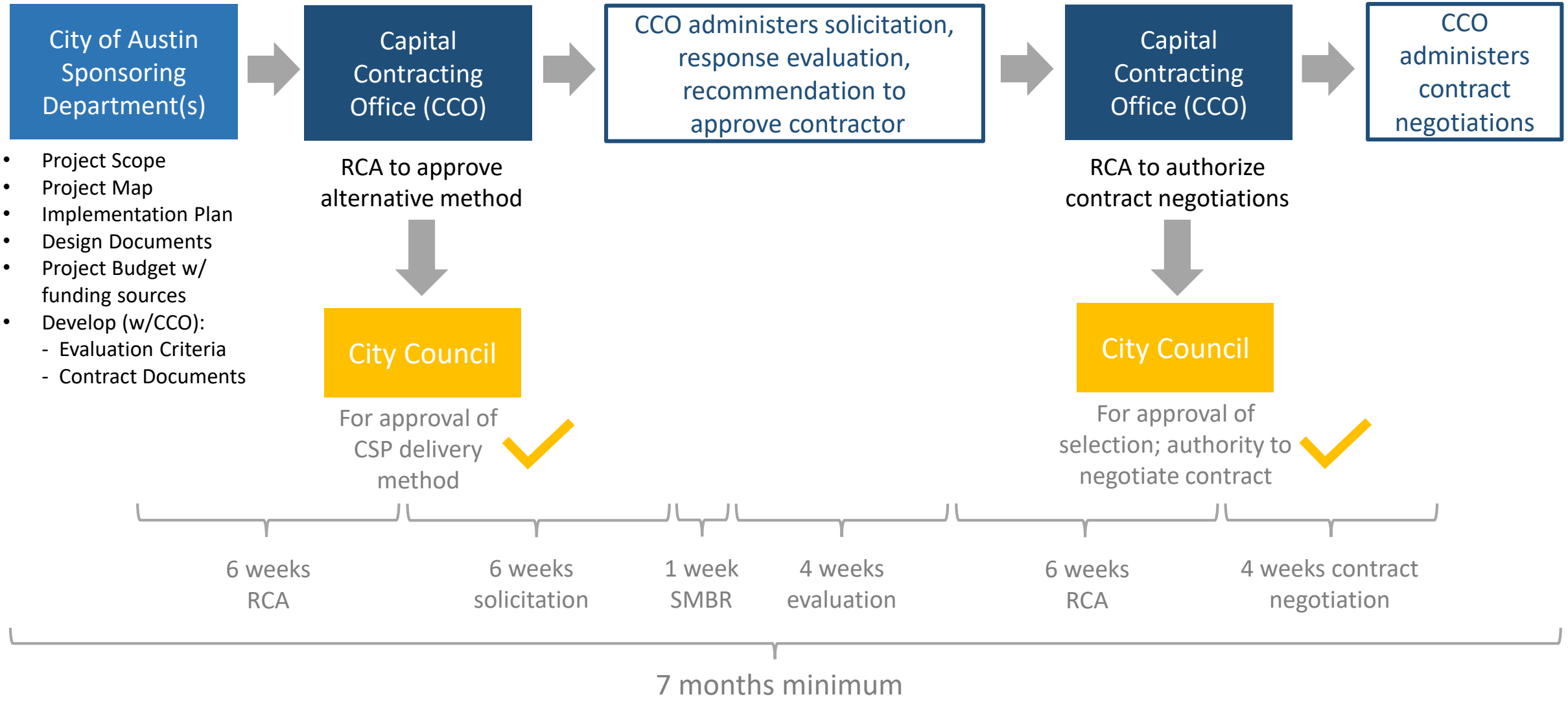
Waller Creek LGC

For approval of Phase Plan and authorization to proceed

2 months minimum

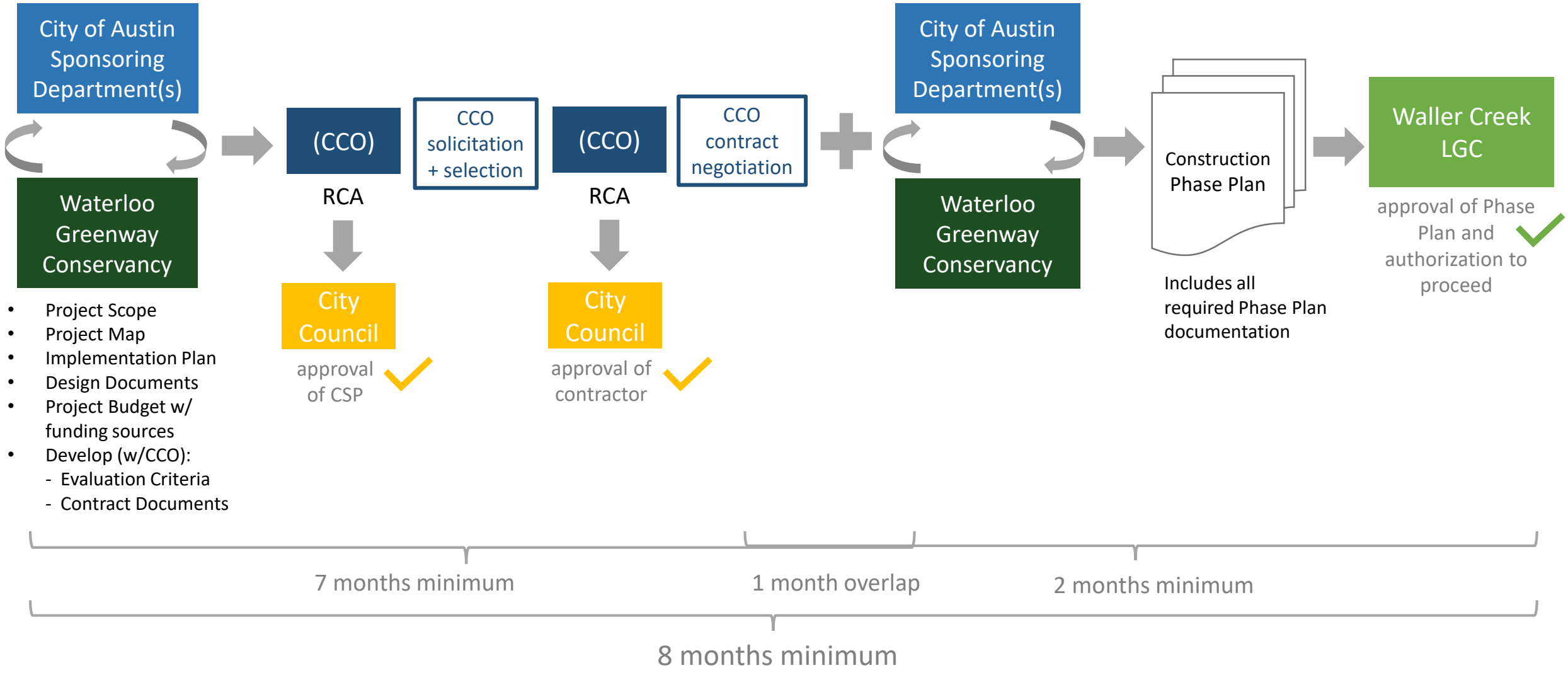
STANDARD CITY CIP PROCESS

VIA CAPITAL CONTRACTING OFFICE (CCO) using COMPETITIVE SEALED PROPOSAL (CSP) METHODOLOGY



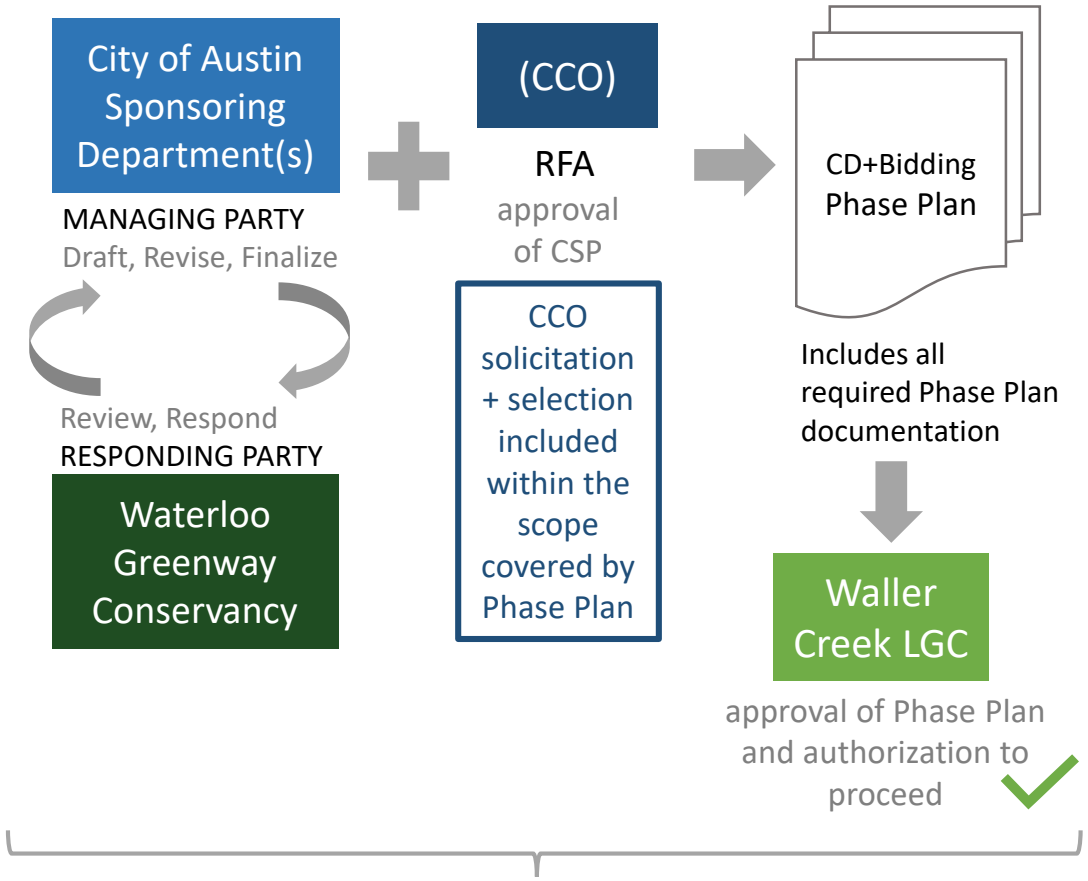
WITHOUT APPROVAL OF RESOLUTION 20-2504

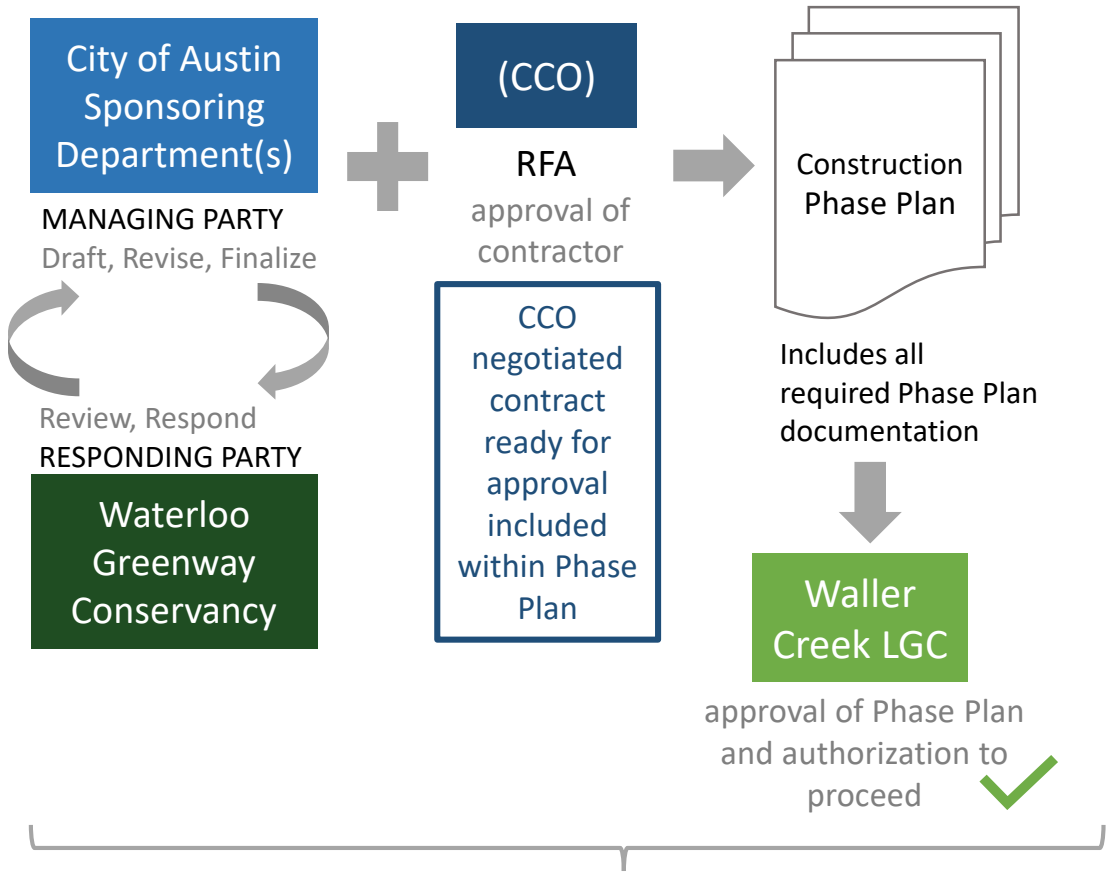
CITY AS MANAGING PARTY, INCLUDING CCO using CSP METHODOLOGY



WITH APPROVAL OF RESOLUTION 20-2504

CITY AS MANAGING PARTY, INCLUDING CCO using CSP METHODOLOGY – INTEGRATED APPROACH





LGC QUESTION 3

- What are the expected changes that will be made to the JDA based on this authority? What is the timeline to ensure that step is completed as expeditiously as possible?

  The expected changes will be developed pending Council action. Possibilities include:

  - Article II, Section 2.01: Roles of the Parties
  - Article III, Section 3.04: Phase Plan Process

PROPOSED TIMELINE

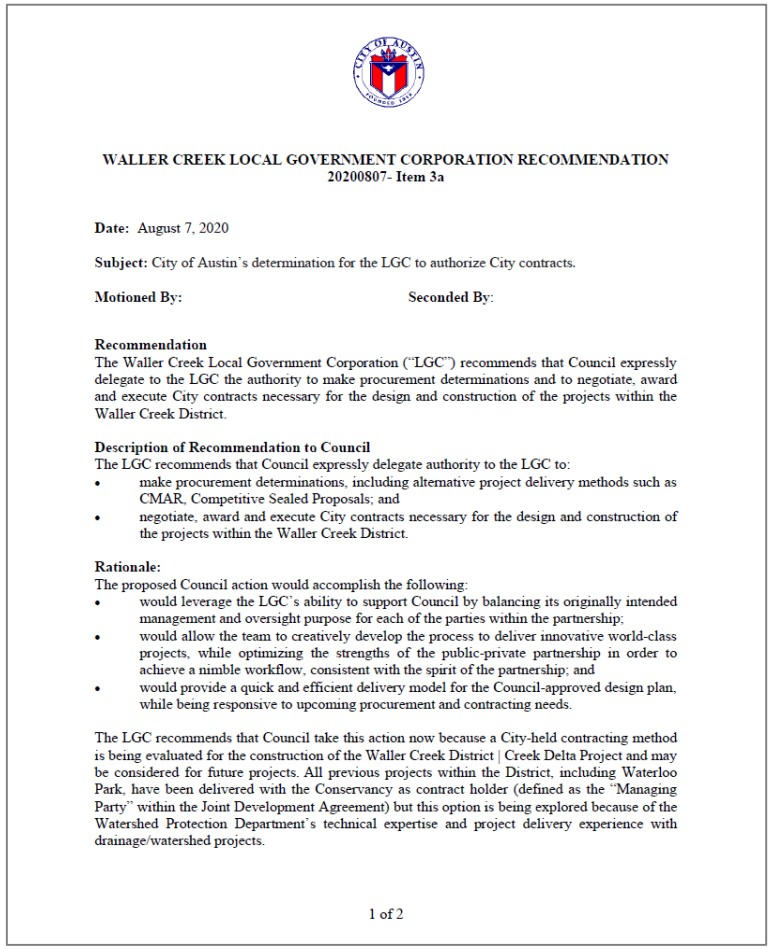
AUGUST MILESTONES

- **August 7:** LGC Meeting to request support for the proposed Council action
- **August 14:** City Council Agenda Available
- **August 27:** City Council Meeting

FUTURE MILESTONES

- **September – December 2020:** JDA revisions and negotiation, Finalize by December 2020 LGC
  - Proposed September workshop including leadership to kick off negotiations

REQUEST FOR LGC SUPPORT



WALLER CREEK LOCAL GOVERNMENT CORPORATION RECOMMENDATION
20200807- Item 3a

Date: August 7, 2020

Subject: City of Austin's determination for the LGC to authorize City contracts.

Motioned By: **Seconded By:**

Recommendation
The Waller Creek Local Government Corporation ("LGC") recommends that Council expressly delegate to the LGC the authority to make procurement determinations and to negotiate, award and execute City contracts necessary for the design and construction of the projects within the Waller Creek District.

Description of Recommendation to Council
The LGC recommends that Council expressly delegate authority to the LGC to:

- make procurement determinations, including alternative project delivery methods such as CMAR, Competitive Sealed Proposals; and
- negotiate, award and execute City contracts necessary for the design and construction of the projects within the Waller Creek District.

Rationale:
The proposed Council action would accomplish the following:

- would leverage the LGC's ability to support Council by balancing its originally intended management and oversight purpose for each of the parties within the partnership;
- would allow the team to creatively develop the process to deliver innovative world-class projects, while optimizing the strengths of the public-private partnership in order to achieve a nimble workflow, consistent with the spirit of the partnership; and
- would provide a quick and efficient delivery model for the Council-approved design plan, while being responsive to upcoming procurement and contracting needs.

The LGC recommends that Council take this action now because a City-held contracting method is being evaluated for the construction of the Waller Creek District | Creek Delta Project and may be considered for future projects. All previous projects within the District, including Waterloo Park, have been delivered with the Conservancy as contract holder (defined as the "Managing Party" within the Joint Development Agreement) but this option is being explored because of the Watershed Protection Department's technical expertise and project delivery experience with drainage/watershed projects.

1 of 2

As the Sponsoring Departments for the City of Austin, PARD and WPD request the LGC to consider formally approving a recommendation to support this action.

Questions + Discussion

Waller Creek Local Government Corporation Meeting | August 7, 2020