



**ROUND ROCK TEXAS**  
ADMINISTRATION DEPARTMENT

April 24, 2020

**Mayor**  
Craig Morgan

**Mayor Pro-Tem**  
Writ Baese

**Councilmembers**  
Tammy Young  
Rene Flores  
Matthew Baker  
Will Peckham  
Hilda Montgomery

**City Manager**  
Laurie Hadley

**City Attorney**  
Stephan L. Sheets

Honorable Greg Abbott  
Governor of Texas  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711-2428

Re: Request for a Proclamation allowing local governments to conduct the election postponed from May 2, 2020 to a date earlier than November 3, 2020

Dear Governor Abbott:

As you are well aware, free and fair elections are the cornerstone of our great republic. To maintain the public's trust in our government, it is critically important that elections be held in accordance with the law and in a consistent manner.

The elected officials of Round Rock understand and support why you felt it important that the May 2, 2020 election be postponed. The Covid-19 pandemic left all of us with little choice in the matter. However, we believe that there are legitimate public health and safety and other important considerations for allowing local governments the flexibility to move the May 2020 election to a date earlier than November 3, 2020.

We respectfully request that you exercise your constitutional and statutory authority to issue a proclamation allowing the City of Round Rock to conduct the elections originally scheduled for May 2, 2020 to be held earlier than November 3, 2020. If provided with this option, Round Rock will most likely select a Saturday in August to conduct this election for the reasons set forth below.

I'm sure that you will agree that the most important duty and responsibility that an elected official has is to adopt a budget and establish a tax rate. Since Round Rock's fiscal year begins October 1, the budget and tax rate must be adopted prior to that date. Members of the city council elected at a November election will have no say or input into these critical matters. More importantly, the voters will not be able to choose who will represent them in these matters. Calling the election for a date in August will give a voice to the voters and allow the newly elected officials to debate and vote on the annual budget and tax rate which will be adopted in September.

From a public health and safety point of view, most experts agree that the Covid-19 virus will be less of a problem in the hot summer months. Those same experts worry about a second wave of infections next fall. For example, Dr. Anthony Fauci stated during the March 25, 2020 White House press briefing that "What we're starting to see now in the Southern Hemisphere and southern African countries is that we're

having cases appearing as they go into their winter season. If in fact they have a substantial outbreak, it will be inevitable that we need to be prepared for the next cycle. I think it very well might [be seasonal.]”

More recently, on Wednesday, April 22, 2020, Robert Redfield, Director of the CDC was quoted in the *Washington Post* as follows: “There’s a possibility that the assault of the virus on our nation next winter will actually be even more difficult than the one we just went through,” Redfield told The Post’s Lena H. Sun. He added, “We’re going to have the flu epidemic and the coronavirus epidemic at the same time.”

With the Covid-19 pandemic in mind, the safer option for the voters appears to be to conduct the election in August, rather than November. As Governor, you have the authority to choose either of two legal alternatives that will allow Round Rock to conduct its election in August.

The first option is to simply suspend Section 41.001 of the Texas Election Code that requires all general and special elections to be held on a uniform election date. This of course could be limited to only the elections previously scheduled for May 2, 2020. This will allow each local government to choose an election date that best suits its needs. One benefit of this option is that it would require only one proclamation.

The second option is to accept the legal position that the general election originally scheduled for May 2, 2020 is no longer a “general election” because it no longer meets the statutory definition of a general election. This means that it is now a “special election” and the Governor has the authority by proclamation to order an emergency special election be held on a specific date. If other cities are interested in requesting similar relief, a separate proclamation for each city would be required.

A legal memorandum discussing the legal basis behind both of these two options is enclosed herein.

In summary, please recognize that the voters and their elected representatives generally know what is in their own best interests. Please allow the representatives of local governments to have the flexibility to choose to conduct their election before November 3, 2020. My last point is that I do not believe that granting this request will cause any harm whatsoever to any citizen, voter, local governmental entity, or the State of Texas.

With this request in mind, enclosed herewith for your convenience are drafts of two proposed proclamations which will allow the City of Round Rock to hold the May 2, 2020 before November 3, 2020. Please feel free to contact me if you need additional information or have any questions.

Respectfully submitted,

Craig Morgan, Mayor

Enclosures

cc: (w/o enclosures)

Honorable Charles Schwertner  
Senator, District 5  
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Capitol Station  
Austin, TX 78711

Honorable James Talarico  
Texas Representative, District 52  
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