

**WHOLESALE WATER AGREEMENT
BETWEEN THE CITY OF ROUND ROCK, TEXAS AND
FERN BLUFF MUNICIPAL UTILITY DISTRICT**

This Wholesale Water Agreement (this “Agreement”) is entered into as of the ____ day of _____, 2025 between the CITY OF ROUND ROCK, TEXAS (the “City”), a home rule municipality located in Williamson County, Texas, and FERN BLUFF MUNICIPAL UTILITY DISTRICT (“Fern Bluff”), a conservation and reclamation district created under Article XVI, Section 59 of the Texas constitution and operating under the provisions of Chapters 49 and 54 of the Texas Water Code. In this Agreement, the City and Fern Bluff are sometimes referred to individually as “a Party” and collectively as “the Parties.”

WITNESSETH:

WHEREAS, the City owns and operates a water treatment and distribution system serving territory within the City’s corporate boundaries; and

WHEREAS, Fern Bluff is located within the City’s extraterritorial jurisdiction and was created to provide, among other services, retail water and wastewater services to the land within its boundaries; and

WHEREAS, the Parties previously entered into that one certain Water Supply Agreement Between the City of Round Rock, Texas and Fern Bluff Municipal Utility Agreement dated the 22nd day of August, 1991, which 1991 Agreement has since expired; and

WHEREAS, the Parties now wish to renew their agreement for the City to supply Fern Bluff with wholesale water service;

NOW, THEREFORE, for and in consideration of the premises and the mutual obligations and benefits herein contained, the Parties agree as follows:

**ARTICLE I.
Definitions**

1.01 In addition to the terms defined in the preceding paragraphs of this Agreement, the following terms, when used in this Agreement, have the following meanings:

- a. “Board” or “Board of Directors” means the Board of Directors of Fern Bluff.
- b. “Director” means the Director of the City’s Water and Wastewater Utility.
- c. “Force Majeure” means acts of God, strikes, lockouts, or other industrial disturbances; acts of a public enemy; orders of the government of the United States or the State of Texas or any civil or military authority other than the Parties; insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, and droughts; restraint of government and people; civil

disturbances; explosions, breakage or accidents to machinery, pipelines, or canals or other causes not reasonably within the control of the Party claiming the inability.

- d. “Impact Fees” means the amounts charged by the City to pay for a portion of the capital costs of the City’s water supply and treatment system necessary to provide fresh water supply to Fern Bluff.
- e. “Living Unit Equivalent” or “LUE” means the amounts of water and wastewater service required to serve a service unit, as determined under City Ordinances.
- f. “Ordinances” means City ordinances, as amended from time to time.
- g. “Commission” means the Texas Commission on Environmental Quality, or its successor agency.

ARTICLE II.

Impact Fees

2.01 Fern Bluff is a “developed district” as the term is defined under Section 49.23602, Texas Water Code. Therefore, Fern Bluff does not anticipate making any new water or wastewater connections during the term of this Agreement. However, if Fern Bluff must make any such new connections, Fern Bluff will collect the City’s standard water Impact Fees on behalf of the City prior to initiation of service to any new water connection within Fern Bluff. Fern Bluff will not provide service to any new connection until the City’s Impact Fees have been paid by the customer requesting the connection. Impact Fees collected by Fern Bluff during each month will be remitted to the City by the 15th day of the following month. The City will give written notice to Fern Bluff of any change in the City’s Impact Fees at least 30 days prior to the change becoming effective, in order to allow Fern Bluff adequate time to amend its rate order and adjust the amounts which it is collecting on behalf of the City under this Section.

2.02 Upon the payment of each water Impact Fee described in this Article 2.02, Fern Bluff will have a guaranteed reservation and commitment of capacity in the City Systems for the amount of capacity (in LUEs) for which a water Impact Fee has been paid.

2.03 All other fees required by the City will be paid as required by City Ordinances.

ARTICLE III.

Water Services

3.01 The City will sell and deliver water, which will be supplied from the City’s water distribution system to the boundaries of Fern Bluff. The point or points of delivery of water to Fern Bluff are shown on Exhibit “A.” The City presently has an adequate water supply with which to provide water service to Fern Bluff at the same level that water services are provided to other retail customers within the City; however, the supply of water to Fern Bluff may be reasonably limited by the City on the same basis and to the same extent as the supply of water to any other customers within the City. The City will provide potable water meeting the standards of the Commission for human consumption and other domestic uses at a minimum pressure of 35 psi at each customer meter and a minimum flow rate of 0.6 gallons per minute per LUE, and in compliance with all

applicable requirements for wholesale contracts for purchased water systems, including Section 290.45(f), *Texas Administrative Code*, and any other applicable regulatory requirements. Service by the City to Fern Bluff will be nondiscriminatory and consistent with the City's standard service policies and regulations, as established by the Round Rock City Council. The City will be the sole source of potable water to Fern Bluff, and Fern Bluff will not seek to develop its own potable wells or alternate supplies, except in the event that the City is no longer able to provide potable water service as contemplated hereby. The preceding sentence notwithstanding, the City acknowledges and consents to the fact that Fern Bluff maintains water and wastewater system interconnections with the water and wastewater systems of Brushy Creek Municipal Utility District ("Brushy Creek"), which is immediately adjacent to Fern Bluff. Fern Bluff and Brushy Creek may from time to time provide emergency or otherwise urgent supplies of water and wastewater services to one another; however, these interconnection services are not intended to, and shall not, impinge upon the City's or Fern Bluff's obligations and rights under this Agreement.

3.02 Retail water service within Fern Bluff will be provided by Fern Bluff. Water meters meeting City specifications for customers of Fern Bluff will be provided by Fern Bluff at Fern Bluff's cost. Fern Bluff will adopt a water conservation and drought management plan which is at least as stringent as the City's, as amended from time to time and will amend its plan from time to time to correspond with any amendments adopted by the City, provided that the City shall provide notice to Fern Bluff of any such amendments and allow Fern Bluff 30 days to amend Fern Bluff's drought contingency plan. Fern Bluff will provide the City with a copy of said water conservation and drought management plan within forty-five (45) days after the effective date of this Agreement. In addition, Fern Bluff will implement water rationing and water conservation measures under its water conservation and drought management plan when those measures are activated by the City. The City will give Fern Bluff notice of any activation of water rationing and water conservation measures. Fern Bluff may not sell or deliver water to any customer outside the boundaries of Fern Bluff without the City's approval.

3.03 Water delivered to Fern Bluff will be measured by a master meter or meters at all connections to the City water distribution system. Metering equipment and related facilities, including a meter vault and standard-type devices required for properly measuring the quantity of water delivered to Fern Bluff have been installed at each point of delivery at Fern Bluff's cost. The City will operate and maintain the metering equipment. Fern Bluff will calibrate the master meters annually, or more frequently at the City's request. Fern Bluff will provide the City with a copy of the calibration report within ten (10) days of Fern Bluff's receipt of same. If the City requests calibration of a master meter more frequently than once every 12 months and, upon calibration, the master meter in question proves to be accurate, then the cost of the calibration will be borne by the City. Any master meter registering within three percent (3%) accuracy will be deemed to be accurate. If any master meter tests to be inaccurate by more than three percent (3%), all testing and calibration costs will be borne by Fern Bluff, the master meter will be recalibrated or replaced, and a billing adjustment will be made based on the degree of the meter's inaccuracy, as determined by the test. If the Parties can reasonably estimate the time at which the master meter became inaccurate, the City will make a billing adjustment based on that time period. If the Parties cannot reasonably estimate the time at which the master meter became inaccurate, then the City will make a billing adjustment to no more than the previous six months' billings. If a master meter is out of service or under repair so that the amount of water delivered cannot be ascertained or computed from the readings, the water delivered during the period the master meter was out of service or

repair will be estimated and agreed upon by the Parties based on the best data available. Fern Bluff will read all master meters on a daily basis, except on weekends and state and federal holiday and will keep accurate records of all measurements of water passing through the master meters. Such records will be open to the City for inspection or copying at all times during Fern Bluff's regular business hours. Both Fern Bluff and the City will be entitled to access the master meters at all times, and the City will read the master meters once each City billing cycle, for billing purposes.

3.04 The rate to be charged by the City to Fern Bluff for water supplied under this Agreement will include a monthly base charge of \$27,443.00 and a volume charge of \$3.00 per 1,000 gallons delivered to Fern Bluff. The rates set by the City and charged to Fern Bluff may be reviewed and/or amended annually based on a cost-of-service study performed by the City. The City may include a reasonable rate of return in its rates.

3.05 Fern Bluff agrees to pay the City in accordance with City Ordinances, to bill users of potable water within Fern Bluff and to set and maintain rates sufficient to pay the following:

- a.** For water delivered by the City pursuant to this Agreement.
- b.** For all utility operation and maintenance expenses as they come due.

3.06 Fern Bluff agrees to provide the City with a copy of each resolution or order adopted by Fern Bluff setting water rates within seven days of adoption. The City agrees to give written notice to Fern Bluff at least 30 days prior to approval of any wholesale rate change in order to allow Fern Bluff to (i) review and comment upon the proposed change and (ii) adjust its own rates to its customers based on the increase in wholesale costs.

ARTICLE IV. **Miscellaneous**

4.01 If, by reason of Force Majeure, a Party is rendered unable, wholly or in part, to carry out its obligations under this Agreement, such Party will give written notice and the full particulars of such Force Majeure to the other Party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the Party giving such notice, to the extent it is affected by such Force Majeure, will be suspended during the continuance of the inability then claimed, but for no longer period, and any such Party will endeavor to remove or overcome such inability with all reasonable dispatch.

4.02 The City will not be liable to Fern Bluff or any customer of Fern Bluff for the failure of the City to provide water or wastewater treatment service where the failure results from Force Majeure.

4.03 This Agreement is subject to all valid rules, regulations, and laws applicable thereto promulgated by the United States of America, the State of Texas, or any agency thereof or regulatory body having lawful jurisdiction.

4.04 This Agreement will be for the sole and exclusive benefit of the City and Fern Bluff and will not be construed to confirm any benefit or right upon any other parties.

4.05 This Agreement may be amended only by consent of both of the Parties.

4.06 The provisions of this Agreement are severable and, if any word, phrase, clause, sentence, paragraph, section or other part of this Agreement or the application thereof to any person or circumstance is ever held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement will be construed as if such invalid provision was not contained herein.

4.07 This Agreement will be in force and effect from the date of execution by both Parties and will continue in effect for 40 years thereafter. The foregoing notwithstanding, if all of the land within Fern Bluff is annexed and Fern Bluff is dissolved, this Agreement will terminate on the date of dissolution of Fern Bluff.

4.08 This Agreement will be construed under and in accordance with Texas law. Venue for any action arising hereunder will be in Williamson County, Texas.

4.09 Any notice given under this Agreement must be in writing. Notice may be given: (i) by depositing the notice in the United States Mail, postage paid, certified, and addressed to the Party to be notified with return receipt requested; (ii) by delivering the notice to the Party, or an agent of the Party or (iii) by confirmed facsimile, provided that a copy of the notice is also given in one of the manners specified in (i) or (ii). Notice deposited in the mail in the manner specified will be effective three days after deposit. Notice given in any other manner will be effective only if and when received by the Party to be notified. For the purposes of notice, the addresses of the parties will, until changed as provided below, be as follows:

CITY: City of Round Rock
221 East Main Street
Round Rock, Texas 78664
Attn: City Manager
Email: bbennett@roundrocktexas.org

With copy to:
Stephen L. Sheets
Sheets & Crossfield, PLLC
309 E. Main St.
Round Rock, Texas 78664

FERN BLUFF: Fern Bluff Municipal Utility District
7320 Wyoming Springs Drive
Round Rock, TX 78681
Email: gm@fernbluffmud.org

With copy to:
Law Office of Zachariah T. Evans
2900 W. Anderson Lane, Ste. C-200, #354
Austin, Texas 78757
Email: zac@ztevanslaw.com

The Parties may change their respective addresses for purposes of Notice by giving at least five days written notice of the new address to the other party.

4.10 If any date or any period provided in this Agreement ends on a Saturday, Sunday or legal holiday, the applicable period will be extended to the next business day.

4.11 Each party has been represented by legal counsel who have participated equally in the formulation, drafting, and approval of this Agreement. Therefore, in the event of any ambiguity, the provisions of this Agreement will not be construed for or against either party based on draftsmanship. Wherever appropriate, the masculine gender may include the feminine or neuter, and the singular may include the plural, and vice versa.

IN WITNESS WHEREOF, the City and Fern Bluff, acting under the authority of their respective governing bodies, have caused multiple counterparts of this Agreement to be duly executed, each of which will be of equal dignity, all as of the ____ day of _____, 2025.

SIGNATURES ON FOLLOW PAGES

CITY OF ROUND ROCK, TEXAS

By: _____
CRAIG MORGAN, Mayor

Date: _____

ATTEST:

Ann Franklin, City Clerk

**FERN BLUFF MUNICIPAL UTILITY
DISTRICT**

By: George Sabatino
GEORGE SABATINO, President, Board of
Directors

Date: Oct. 28, 2025

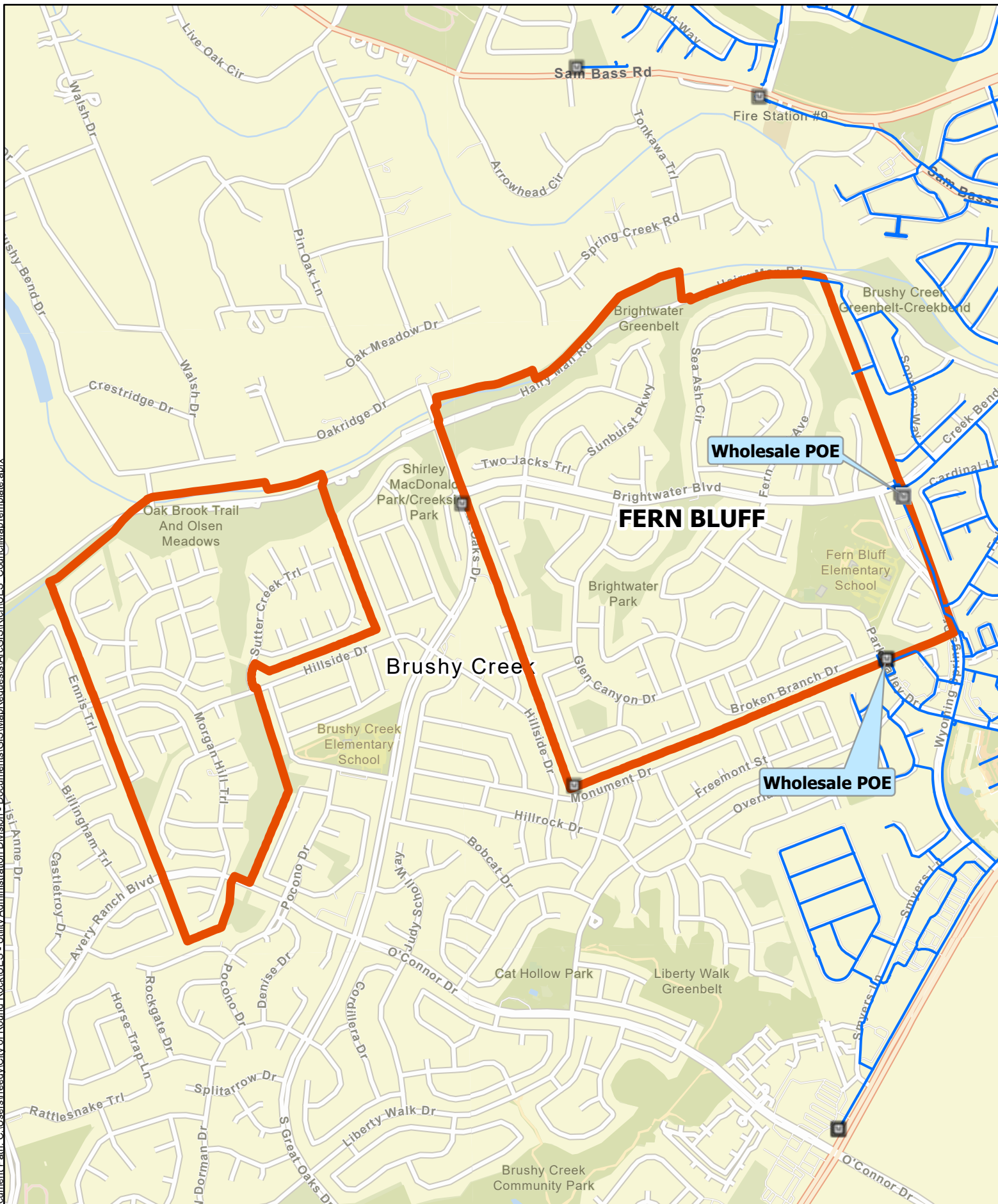
ATTEST:

Jessica Stempko
Jessica Stempko, Secretary, Board of Directors

EXHIBIT A

MAP SHOWING POINTS OF DELIVERY OF WATER

Document Path: C:\Users\reedv\City of Round Rock\UES - Utility Administration Division - Documents\GIS\MapRequests\ArcGIS\Rich\UES - CouncilMapTemplate.aprx
Date: 11/12/2025



Fern Bluff MUD - Water Supply Agreement

