

EXHIBIT

"A"

WASTEWATER CAPACITY AGREEMENT BETWEEN THE CITY OF ROUND ROCK AND THE CITY OF CEDAR PARK

RECITALS

Whereas, on June 4, 2010, the cities of Austin, Cedar Park, Leander, and Round Rock (the "Cities") entered into an Amended and Restated Master Contract for the Financing, Construction, Ownership and Operation of the Brushy Creek Regional Wastewater System, (the "Master Agreement"); and

Whereas, the Cities are in the process of obtaining a re-rating of the Brushy Creek Regional Wastewater System (the "System") to increase the System's rated capacity as well as starting the process to expand the System by adding facilities that will increase the capacity; and

Whereas, Cedar Park had planned on obtaining additional capacity through the re-rating improvements, and

Whereas, the Cities have agreed to delay the improvements necessary for the re-rating in order to combine said improvements with a needed expansion project, which will be to the benefit of all of the Cities; and

Whereas, Section 5.2 of the Master Agreement provides that any City may transfer a portion of its reserved capacity in the System to another City; and

Whereas, Round Rock has surplus capacity in the System that it is willing to make available to Cedar Park on a temporary basis until the System is re-rated and the expansion is completed; and

Whereas, Cedar Park desires to purchase from Round Rock the temporary right to utilize Round Rock's surplus wastewater treatment capacity in the System; **Now Therefore**

This Wastewater Capacity Agreement ("Agreement") is entered into by and between the City of Round Rock ("Round Rock") and the City of Cedar Park ("Cedar Park") to be effective as of the 1st day of September, 2017.

ARTICLE I DEFINITIONS

Section 1.01. DEFINITION OF TERMS. Certain of the capitalized terms and expressions used in this Agreement, unless the context clearly shows otherwise, shall have the following meanings:

A. "Agreement" means this agreement.

B. "Cedar Park" means the City of Cedar Park, Texas

C. “GPD” mean gallons per day.

D. “Master Contract” means that certain Amended and Restated Master Contract for the Financing, Construction, Ownership and Operation of the Brushy Creek Regional Wastewater System, among City of Austin, City of Cedar Park, City of Round Rock, and City of Lender together with any amendments or supplements thereto.

E. “Round Rock” means the City of Round Rock, Texas.

F. “System” means the Brushy Creek Regional Wastewater System owned and operated by the Cities.

ARTICLE II
TEMPORARY TRANSFER OF CAPACITY

Section 2.01. SURPLUS CAPACITY. Round Rock has capacity in the System which it does not require for up to seven years.

Section 2.02. CEDAR PARK’S REQUIREMENTS. Cedar Park is in need of 510,000 GPD of System capacity until December 31, 2024, or until the System is re-rated and the expansion is completed, whichever first occurs.

Section 2.03. CAPACITY TRANSFER. Round Rock is willing to transfer to Cedar Park 510,000 GPD of System capacity. Cedar Park is willing to accept and pay consideration for the transfer of 510,000 GPD from Round Rock.

Section 2.04. CONSIDERATION. In consideration of the transfer of the capacity, Cedar Park agrees to pay to Round Rock the lump sum of \$10,000, within 30 days after the execution of this Agreement.

Section 2.05. TERM OF TRANSFER. This Agreement will terminate on (i) December 31, 2024 or (ii) when the System is re-rated and the expansion is completed so that Cedar Park receives additional capacity in the amount of at least 510,000 GPD, whichever first occurs.

ARTICLE III
GENERAL PROVISIONS

Section 3.01. ADDRESSES AND NOTICE. Unless otherwise provided, in this Agreement, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, called “Notice”) herein provided or permitted to be given, made or accepted by any party to the others must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party, or by telecopier, when appropriate, addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective, unless otherwise stated in this Agreement, from and after the expiration of four (4) days after it is so deposited. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purpose of notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to Round Rock, to:

City Manager
City of Round Rock
221 E. Main St.
Round Rock, Texas 78664

with a copy to:

Stephan L. Sheets
Sheets & Crossfield
309 E. Main St.
Round Rock, Texas 78664

If to Cedar park, to:

Sam Roberts
Assistant City Manager
City of Cedar Park
450 Cypress Creek Road, Bldg. 1
Cedar Park, Texas 78613

with a copy to:

J.P. LeCompte
City Attorney
450 Cypress Creek Road, Bldg. 1
Cedar Park, Texas 78613

The parties shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least fifteen (15) days written notice to the other parties.

Section 3.02. MODIFICATION. This Agreement may not be changed or modified without the mutual consent of the governing bodies of each of the parties hereto, which consent shall not be unreasonably withheld or delayed.

Section 3.03. ASSIGNABILITY; SUCCESSORS IN INTEREST. This Agreement shall not be assignable by any party without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

Section 3.04. SEVERABILITY. The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person or circumstance shall ever be held by any of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances shall not be affected thereby.

Section 3.05. MERGER. Other than the other contracts mentioned herein, this Agreement constitutes the entire agreement between the parties relative to the subject matter thereof. Except as noted in the previous sentence, there have been and are no agreements, covenants,

representations or warranties between the parties other than those expressly stated herein or expressly provided for herein.

Section 3.06. VENUE. Venue for any action arising hereunder will be in Williamson County, Texas.

Section 3.07. NO THIRD PARTY BENEFICIARIES. Nothing in this Agreement, express or implied, is intended to confer upon any person or entity, other than the parties hereto, any rights, benefits, or remedies under or by reason of this Agreement.

Section 3.08. NO WAIVER OF IMMUNITIES OR DEFENSES. Nothing in this Agreement shall be deemed to waive, modify, or amend any immunity or legal defense available at law or in equity to the Parties, their past or present officers, employees, or agents, nor to create any legal drights or claims or bdhalf of any thir party.

This Agreement is executed to be effective the 1st day of September, 2017.

CITY OF ROUND ROCK, TEXAS

Craig Morgan, Mayor
Date: _____

Attest:

Sara White, City Clerk

CITY OF CEDAR PARK

Matthew Powell, Mayor

Date: _____

ATTEST:

LeAnn Quinn, City Secretary