

**RESOLUTION NO. R-2023-338**

**RESOLUTION APPROVING A RESOLUTION BY THE BOARD OF DIRECTORS OF THE BRUSHY CREEK REGIONAL UTILITY AUTHORITY, INC. AUTHORIZING THE ISSUANCE OF "BRUSHY CREEK REGIONAL UTILITY AUTHORITY, INC. CITY OF ROUND ROCK, TEXAS CONTRACT REVENUE BONDS, (BRUSHY CREEK REGIONAL WATER TREATMENT AND DISTRIBUTION PROJECT), SERIES 2023"; ESTABLISHING THE PROCEDURES FOR SELLING AND DELIVERING THE BONDS AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE AND DELIVERY OF SUCH BONDS**

<b>CITY OF ROUND ROCK</b>	<b>§</b>	
<b>COUNTIES OF WILLIAMSON AND TRAVIS</b>	<b>§</b>	
<b>STATE OF TEXAS</b>	<b>§</b>	

**WHEREAS**, the City of Round Rock, Texas (the "City") is a participating and founding member of the Brushy Creek Regional Utility Authority, Inc. (the "BCRUA"); and

**WHEREAS**, the City has approved and executed the Master Contract for the financing, construction and operation of the BCRUA Regional Water Treatment and Distribution Project as amended by a First Amendment, Second Amendment, Third Amendment, Fourth Amendment, Fifth Amendment and Sixth Amendment thereto (collectively, the "Master Contract") between the Cities of Cedar Park, Leander and Round Rock, Texas (collectively, the "Member Cities") and the BCRUA, pursuant to which the BCRUA will construct, operate and maintain water treatment and distribution facilities for the benefit of the Member Cities; and

**WHEREAS**, the City has previously requested the BCRUA to issue a separate series of contract revenue bonds for the City in an amount not to exceed \$41,750,000 to finance a certain portion of the City's contribution to the BCRUA Project (as defined in the Master Contract) pursuant to the Master Contract; and

**WHEREAS**, pursuant to Section 4.01(d) of the Master Contract, prior to adoption of a bond resolution by the BCRUA's Board of Directors for a Member City, a substantially final copy of the Bond Resolution for the Member City and the sale and offering documents, if any, shall be presented to the City Council of the Member City for review and approval; and

**WHEREAS**, a substantially final copy of the BCRUA's the resolution attached hereto as Exhibit "A" (the "Bond Resolution") authorizing issuance of bonds (the "Bonds") to finance a portion of the BCRUA Project as described therein has been presented to the City Council; and

**WHEREAS**, the Bonds are being sold to the Texas Water Development Board (the "TWDB") with the only Sale and Offering Document (as defined in the Master Contract) being the limited purpose Private Placement Memorandum required by the rules of the TWDB (the "Private Placement Memorandum"), a substantially final copy of which is attached hereto as Exhibit "B" and has been presented to the City Council; and

**WHEREAS**, it is hereby further officially found and determined that public notice of the time, place, and purpose of this meeting was given, all as required by Texas Government Code, Chapter 551.

**NOW, THEREFOR, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ROUND ROCK, TEXAS:**

**SECTION 1. RECITALS.** The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section. Capitalized terms used herein shall have the meaning assigned in the preamble hereof or the Master Contract, unless otherwise defined.

**SECTION 2. BOND RESOLUTION.** The Bond Resolution attached hereto as Exhibit "A" has been presented to the City Council for review and is hereby approved as to form and content by the City Council with such changes therein or additions thereto as the City Manager or an Assistant City Manager may deem advisable. The City hereby acknowledges that the payment of principal of and interest on the Bonds is payable, in whole or in part, from the Bond Payments (as defined in the Master Contract) to be made by the City to the BCRUA under and pursuant to the Master Contract. The Bond Resolution, including the Award Certificate executed thereunder, shall constitute a Bond Resolution under the Master Contract for all purposes.

**SECTION 3. OFFERING DOCUMENT.** The substantially final draft of the Private Placement Memorandum related to the issuance of the Bonds attached hereto as Exhibit "B" has been presented to the City Council for review and is hereby approved by the City Council with such changes therein or additions thereto as the City Manager or an Assistant City Manager may deem advisable.

**SECTION 4. CONTINUING DISCLOSURE UNDERTAKING.** In Article X of the Master Contract, the City has agreed to provide continuing disclosure of certain financial and operating data so long as the Bonds are outstanding in accordance with Rule 15c2-12 (the "Rule") of the United States Securities and Exchange Commission (the "SEC"). Due to subsequent amendments to the Rule since the execution of the Master Contract, the City hereby undertakes as follows in order to comply with the requirements of the Rule as currently in effect:

(a) Annual Reports. The City shall provide annually to the MSRB, (1) within six months after the end of each fiscal year of the City ending in or after 2023, financial statements of the City if audited financial statements of the City are then available, and (2) if not available by such time, audited financial statements of the City, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with generally accepted auditing standards by a certified public account or licensed public accountant or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation and (ii) audited, if the City commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within 12 months after any such fiscal year end, then the City shall file unaudited financial statements within such 12-month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available. If the

City changes its fiscal year, it will file notice of the change (and of the date of the new fiscal year end) with the MSRB prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

(b) Event Notices. The City shall file notice of any of the following events with respect to the Bonds with the MSRB in a timely manner and not more than 10 business days after the occurrence of the event:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) Modifications to rights of holders of the Bonds, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Bonds, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership, or similar event of the City;
- (13) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material;
- (15) Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and

(16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers of the City in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City, and (b) the City intends the words used in the immediately preceding paragraphs (15) and (16) and the definition of Financial Obligation in this Section to have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

The City shall file notice with the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (a) of this Section by the time required by such subsection.

(c) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of deposit made in accordance with Section 32 the Bond Resolution that causes the Bonds no longer to be outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City makes no representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITH OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR *MANDAMUS* OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under the Master Contract for purposes of any other provision of the Master Contract.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment as well as such changed circumstances, and (2) either (a) the holders of a majority in aggregate principal amount of the outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the holders and beneficial owners of the Bonds. The City may also repeal or amend the provisions of this Section if the SEC amends or repeals the applicable provisions of the Rule or any court of final jurisdiction enters judgment that such provisions of the Rule are invalid, and the City also may amend the provisions of this Section in its discretion in any other manner or circumstance, but in either case only if and to the extent that the provisions of this sentence would not have prevented an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds, giving effect to (i) such provisions as so amended and (ii) any amendments or interpretations of the Rule. If the City so amends the provisions of this Section, the City shall include with any amended financial information or operating data next provided in accordance with this subsection (a) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

(d) Format, Identifying Information, and Incorporation by Reference. All financial information, operating data, financial statements, and notices required by this Section to be provided to the MSRB shall be provided in an electronic format and be accompanied by identifying information prescribed by the MSRB.

Financial information and operating data to be provided pursuant to subsection (a) of this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document) available to the public on the MSRB's Internet Web site or filed with the SEC.

**SECTION 5. CERTIFICATES.** The City Manager or an Assistant City Manager is authorized to sign an approval affidavit and approval certificate attached hereto as Exhibit "D" reflecting the final interest rates and terms of the Bonds. The Mayor, City Clerk, City Manager and Assistant City Manager are authorized to sign all certificates and are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms of this Resolution and the issuance of the Bonds.

**SECTION 6. CONSERVATION PLAN.** The City will implement the Texas Water Development Board approved water conservation plan.

**SECTION 7. IMMEDIATE EFFECT.** This Resolution shall take effect immediately from and after its adoption in accordance with the law.

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**PASSED AND APPROVED** this October 26, 2023.

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Mayor  
City of Round Rock, Texas

**ATTEST:**

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City Clerk

**EXHIBIT "A"**

**BOND RESOLUTION**



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION BY THE BOARD OF DIRECTORS OF THE BRUSHY CREEK  
REGIONAL UTILITY AUTHORITY, INC. AUTHORIZING THE ISSUANCE OF  
"BRUSHY CREEK REGIONAL UTILITY AUTHORITY, INC. CITY OF ROUND  
ROCK, TEXAS CONTRACT REVENUE BONDS, (BRUSHY CREEK REGIONAL  
WATER TREATMENT AND DISTRIBUTION PROJECT), SERIES 2023";  
ESTABLISHING THE PROCEDURES FOR SELLING AND DELIVERING THE  
BONDS AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE  
ISSUANCE, PAYMENT, SECURITY, SALE, AND DELIVERY OF SUCH BONDS**

**ADOPTED OCTOBER 25, 2023**

## **RESOLUTION NO.**

### **A RESOLUTION BY THE BOARD OF DIRECTORS OF THE BRUSHY CREEK REGIONAL UTILITY AUTHORITY, INC. AUTHORIZING THE ISSUANCE OF "BRUSHY CREEK REGIONAL UTILITY AUTHORITY, INC. CITY OF ROUND ROCK, TEXAS CONTRACT REVENUE BONDS, (BRUSHY CREEK REGIONAL WATER TREATMENT AND DISTRIBUTION PROJECT), SERIES 2023"; ESTABLISHING THE PROCEDURES FOR SELLING AND DELIVERING THE BONDS AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE, AND DELIVERY OF SUCH BONDS**

**WHEREAS**, the Brushy Creek Regional Utility Authority, Inc. (the "BCRUA") is a non-profit corporation of the State of Texas (the "State"), created by the Cities of Cedar Park, Leander and Round Rock, Texas (collectively, the "Cities" or singularly, a "City") and existing under the laws of the State, including Subchapter D of Chapter 431, as amended, Texas Transportation Code (the "Authority Act"); and

**WHEREAS**, pursuant to the Authority Act, the BCRUA, is empowered to acquire and construct water facilities including water conservation, storage, transportation, treatment and distribution facilities and to deliver this water to the Cities; and

**WHEREAS**, the Authority Act also authorizes the BCRUA acting through its Board of Directors (the "Board") to issue revenue bonds to finance such water projects, payable solely from the revenues derived from payments to be made to the BCRUA by each respective City for which a series of bonds are issued for the purpose of defraying such City's share of the cost of financing, acquiring, and constructing the BCRUA Project (as hereinafter defined); and

**WHEREAS**, the BCRUA has previously issued separate series of such revenue bonds for the City of Cedar Park, Texas ("Cedar Park"), the City of Leander, Texas ("Leander") and the City of Round Rock, Texas ("Round Rock") to finance their respective share of costs of the BCRUA Project, with each such series payable from and secured solely by payments made by each respective City under the Contract (as hereinafter defined); and

**WHEREAS**, pursuant to the Authority Act, the BCRUA and the Cities have entered into a "Master Contract for the Financing, Construction and Operation of the BCRUA Regional Water Treatment and Distribution Project," dated as of September 2, 2008, as amended by (1) a "First Amendment to the Master Contract for the Financing, Construction and Operation of the BCRUA Regional Water Treatment and Distribution Project" dated as of January 22, 2009; (2) a "Second Amendment to the Master Contract for the Financing, Construction and Operation of the BCRUA Regional Water Treatment and Distribution Project" dated as of October 20, 2010; (3) a "Third Amendment to the Master Contract for the Financing, Construction and Operation of the BCRUA Regional Water Treatment and Distribution Project" dated as of February 22, 2012; (4) a "Fourth Amendment to the Master Contract for the Financing, Construction and Operation of the BCRUA Regional Water Treatment and Distribution Project" dated as of April 25, 2018; (5) a "Fifth Amendment to the Master Contract for the Financing, Construction and Operation of the BCRUA Regional Water Treatment and Distribution Project" dated as of April 22, 2021 and (6) a "Sixth

Amendment to the Master Contract for the Financing, Construction and Operation of the BCRUA Regional Water Treatment and Distribution Project" dated as of December 15, 2021 (collectively, the "Contract").

**WHEREAS**, pursuant to the Contract the BCRUA has agreed to design, finance, construct, own, acquire, maintain and operate the BCRUA Project in a manner that will allow the BCRUA to deliver potable water to the Cities on a regional basis and under which each of the Cities agree to pay their share of the BCRUA Project and to make payments to or on behalf of the BCRUA in amounts sufficient to meet all of the BCRUA's obligations under the Contract including relating to a City's respective series of bonds issued to finance and refinance a City's share of the BCRUA Project and to own, operate and maintain the BCRUA Project; and

**WHEREAS**, the Cities and the BCRUA have approved the Contract; and

**WHEREAS**, Round Rock has requested that the BCRUA issue an additional separate series of revenue bonds in an aggregate principal amount not to exceed \$41,750,000 pursuant to the Contract to finance Round Rock's share of the BCRUA Project (the "Bonds"); and

**WHEREAS**, Cedar Park has also requested the BCRUA issue an additional separate series of contract revenue bonds pursuant to the Contract to finance its respective share of the BCRUA Project Costs with such series of contract revenue bonds expected to be issued and delivered simultaneously with the Bonds; and

**WHEREAS**, this Resolution constitutes a Bond Resolution as that term is defined in the Contract; and

**WHEREAS**, the principal of the Bonds and the interest thereon are and shall be solely payable from and secured by a lien on and pledge of the portion of the Annual Payments designated as "Bond Payments" to be made by Round Rock pursuant to the Contract in amounts sufficient to pay and redeem, and provide for the payment of the principal of, premium, if any, and interest on the Bonds, when due, and the fees and expenses of the Paying Agent/Registrar for the Bonds, all as required by this Resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BRUSHY CREEK REGIONAL UTILITY AUTHORITY, INC. THAT:**

**Section 1. DEFINITIONS.** In addition to the definitions set forth in the preamble of this Resolution, the terms used in this Resolution (except as may be otherwise indicated in the FORM OF BOND) and not otherwise defined shall have the meanings given in Exhibit "A" to this Resolution attached hereto and made a part hereof.

**Section 2. AMOUNT, PURPOSE AND DESIGNATION OF THE BONDS.** (a) *Amount and Designation.* The BCRUA's bonds issued pursuant to this Resolution shall each be entitled "BRUSHY CREEK REGIONAL UTILITY AUTHORITY, INC. CITY OF ROUND ROCK, TEXAS CONTRACT REVENUE BONDS (BRUSHY CREEK REGIONAL WATER TREATMENT AND DISTRIBUTION PROJECT), SERIES 2023" and are hereby authorized to

be issued and delivered in an aggregate maximum principal amount not to exceed \$41,750,000. The authority of the BCRUA Representative to execute and deliver an Award Certificate for the Bonds shall expire at 5:00 p.m., C.D.T., on December 31, 2023. Bonds priced on or before December 31, 2023 may close after such date.

(b) **Purpose.** The Bonds are to be issued for the following purposes to pay: (i) ROUND ROCK'S SHARE OF THE COSTS OF DESIGNING, CONSTRUCTING, ACQUIRING, IMPROVING AND/OR EXPANDING THE BCRUA PROJECT INCLUDING BUT NOT LIMITED TO CONSTRUCTION OF THE PHASE 1D WATER TREATMENT PLANT EXPANSION, THE PHASE 2 RAW WATER DELIVERY SYSTEM AND ELECTRICAL UTILITY IMPROVEMENTS FOR THE PHASE 2 RAW WATER PUMP AND (ii) THE COSTS OF ISSUANCE OF THE BONDS.

**Section 3. DATE, DENOMINATIONS, NUMBERS, MATURITIES AND TERMS OF BONDS.** (a) **Terms of the Bonds.** The Bonds shall initially be issued, sold, and delivered hereunder as fully registered bonds, without interest coupons, numbered consecutively from R-1 upward (except the initial Bond delivered to the Attorney General of the State which shall be numbered T-1), payable to the respective initial Registered Owners thereof in an Authorized Denomination, maturing not later than August 1, 2048, serially or otherwise on the dates, in the years and in the principal amounts, respectively, dated, all as set forth in the Award Certificate executed by the BCRUA Representative in substantially the form attached hereto as Exhibit "B".

(b) **Award Certificate.** As authorized by the Authority Act, the BCRUA Representative is hereby authorized, appointed, and designated to act on behalf of the Board in selling and delivering the Bonds and carrying out the other procedures specified in this Resolution, including determining and fixing the date the Bonds, any additional or different designation or title by which the Bonds shall be known, the price at which the Bonds will be sold, the years in which the Bonds will mature, the principal amount to mature in each of such years, the aggregate principal amount of the Bonds, the rate or rates of interest to be borne by each maturity, the interest payment periods, the dates, price, and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the Board, as well as any mandatory sinking fund redemption provisions for the Bonds and all other matters relating to the issuance, sale, and delivery of the Bonds, all of which shall be specified in a certificate of the BCRUA Representative (the "Award Certificate") the form of which is attached hereto as Exhibit "B"; provided that (i) the price to be paid for the Bonds shall not be less than 98% of the aggregate original principal amount thereof plus accrued interest, if any, thereon from its date to its delivery and (ii) the Bonds shall not bear interest at a net effective interest rate in excess of the maximum rate allowed by law. In establishing the aggregate principal amount of the Bonds, the BCRUA Representative shall establish an amount not to exceed the amount authorized in Section 2, which shall be sufficient to provide for the purposes for which the Bonds are authorized and to pay the costs of issuing the Bonds.

It is further provided, however, that, notwithstanding the foregoing provisions, the Bonds shall not be delivered unless prior to delivery of the Bonds the Award Certificate has been executed and delivered as required by this Resolution. No such Award Certificate shall be executed and

delivered under this Resolution, unless and until the City Council of the City of Round Rock approves this Resolution.

In satisfaction of Section 1201.022(a)(3), Texas Government Code, the Board hereby determines that the delegation of the authority to the BCRUA Representative to approve the final terms and conditions of the Bonds as set forth in this Resolution is, and the decisions made by the BCRUA Representative pursuant to such delegated authority and incorporated in the Award Certificate will be, in the BCRUA's best interest and shall have the same force and effect as if such determination were made by the Board, and the BCRUA Representative is hereby authorized to make and include in the Award Certificate an appropriate finding to that effect. The Award Certificate is hereby incorporated by reference into and made a part of this Resolution.

(c) ***Sale of the Bonds.*** To achieve advantageous borrowing costs for the BCRUA, the Bonds shall be sold to the Texas Water Development Board (the "Purchaser") at the price as set forth in the Award Certificate. The Private Placement Memorandum prepared in connection with the sale of the Bonds to the Purchaser in substantially the form attached to this Resolution is approved.

(d) ***In General.*** The Bonds (i) may and shall be redeemed prior to the respective scheduled maturity dates, (ii) may be assigned and transferred, (iii) may be exchanged for other Bonds, (iv) shall have the characteristics, (v) shall be signed and sealed, and the principal of and interest on the Bonds shall be payable, all as provided, and in the manner required or indicated, in the FORM OF BOND set forth in Exhibit "C" to this Resolution and as determined by the BCRUA Representative as provided herein, with such changes and additions as are required to be consistent with the terms and provisions shown in the Award Certificate.

**Section 4. INTEREST.** The Bonds shall bear interest, calculated on the basis of a 360-day year composed of twelve 30-day months, from their date of delivery as set forth in the Award Certificate, until maturity or redemption, at the rate or rates set forth in the Award Certificate. Interest shall be payable to the Registered Owner of any such Bond in the manner provided and on the dates stated in the FORM OF BOND set forth in Exhibit "C" to this Resolution and the Award Certificate.

**Section 5. REGISTRATION, TRANSFER, AND EXCHANGE; AUTHENTICATION; BOOK-ENTRY-ONLY SYSTEM.** (a) ***Paying Agent/Registrar.*** The BCRUA Representative in the Award Certificate shall select an eligible institution to serve as paying agent/registrar for the Bonds (the "Paying Agent/Registrar"). The BCRUA Representative is authorized to enter into and carry out a Paying Agent/Registrar Agreement with the Paying Agent/Registrar with respect to the Bonds in substantially the form and substance presented to the Board set forth in Exhibit "D" in connection with the approval of this Resolution with such changes as are acceptable to the BCRUA Representative.

(b) ***Registration Books.*** The BCRUA shall keep or cause to be kept at the designated corporate trust office of the Paying Agent/Registrar (the "Designated Trust Office") the Registration Books, and the Board hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, exchanges,

and replacements under such reasonable regulations as the BCRUA and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, exchanges, and replacements as herein provided. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the Registered Owner of each Bond to which payments with respect to the Bonds shall be mailed, as herein provided; but it shall be the duty of each Registered Owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The BCRUA shall have the right to inspect the Registration Books at the Designated Trust Office of the Paying Agent/Registrar during regular business hours, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. A copy of the Registration Books shall be maintained in the State.

(c) ***Ownership of Bonds.*** The entity or person in whose name any Bond shall be registered in the Registration Books at any time shall be deemed and treated as the absolute owner thereof for all purposes of this Resolution, whether or not such Bond shall be overdue, and, to the extent permitted by law, the BCRUA and the Paying Agent/Registrar shall not be affected by any notice to the contrary; and payment of, or on account of, the principal of, premium, if any, and interest on any such Bond shall be made only to such Registered Owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

(d) ***Payment of Bonds and Interest.*** The Paying Agent/Registrar shall further act as the paying agent for paying the principal of, premium, if any, and interest on the Bonds, all as provided in this Resolution. The Paying Agent/ Registrar shall keep proper records of all payments made by the BCRUA and the Paying Agent/Registrar with respect to the Bonds.

(e) ***Authentication.*** The Bonds initially issued and delivered pursuant to this Resolution shall be authenticated by the Paying Agent/Registrar by execution of the Paying Agent/Registrar's Authentication Certificate unless they have been approved by the Attorney General of the State and registered by the Comptroller of Public Accounts of the State, and on each substitute Bond issued in exchange for any Bond or Bonds issued under this Resolution the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE (the "Authentication Certificate"). The Authentication Certificate shall be in the form set forth in the FORM OF BOND in Exhibit "C" attached hereto.

(f) ***Transfer, Exchange, or Replacement.*** Each Bond issued and delivered pursuant to this Resolution, to the extent of the unpaid or unredeemed principal amount thereof, may, upon surrender of such Bond at the Designated Trust Office of the Paying Agent/Registrar, together with a written request therefor duly executed by the Registered Owner or the assignee or assignees thereof, or its or their duly authorized attorneys or representatives, with guarantee of signatures satisfactory to the Paying Agent/Registrar, may, at the option of the Registered Owner or such assignee or assignees, as appropriate, be exchanged for fully registered Bonds, without interest coupons, in the appropriate form prescribed in the FORM OF BOND set forth in Exhibit "C" to this Resolution, in any Authorized Denomination (subject to the requirement hereinafter stated that each substitute Bond shall be of the same Series and have a single stated maturity date), as

requested in writing by such Registered Owner or such assignee or assignees, in an aggregate principal amount equal to the unpaid or unredeemed principal amount of any Bond or Bonds so surrendered, and payable to the appropriate Registered Owner, assignee, or assignees, as the case may be. If a portion of any Bond shall be redeemed prior to its scheduled maturity as provided herein, a substitute Bond or Bonds having the same series designation and maturity date, bearing interest at the same rate, and payable in the same manner, in Authorized Denominations at the request of the Registered Owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon surrender thereof for cancellation. If any Bond or portion thereof is assigned and transferred, each Bond issued in exchange therefor shall have the same series designation and maturity date and bear interest at the same rate and payable in the same manner as the Bond for which it is being exchanged. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond. The Paying Agent/Registrar shall exchange or replace Bonds as provided herein, and each fully registered Bond delivered in exchange for or replacement of any Bond or portion thereof as permitted or required by any provision of this Resolution shall constitute one of the Bonds for all purposes of this Resolution, and may again be exchanged or replaced. On each substitute Bond issued in exchange for or replacement of any Bond or Bonds issued under this Resolution there shall be printed an Authentication Certificate, in the form set forth in Exhibit "C" to this Resolution. An authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign the Authentication Certificate, and, except as provided in (e) above, no such Bond shall be deemed to be issued or outstanding unless the Authentication Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all Bonds surrendered for transfer, exchange, or replacement. No additional orders or resolutions need be passed or adopted by the Board or any other body or person so as to accomplish the foregoing transfer, exchange, or replacement of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bonds in the manner prescribed herein, and said Bonds shall be in typed or printed form as determined by the BCRUA Representative. Pursuant to Subtitle D, Texas Government Code and particularly Section 1201.063, thereof, the duty of transfer, exchange, or replacement of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of the Authentication Certificate, the exchanged or replaced Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which were originally issued pursuant to this Resolution. The BCRUA shall pay the Paying Agent/Registrar's standard or customary fees and charges, if any, for transferring, and exchanging any Bond or any portion thereof, but the one requesting any such transfer and exchange shall pay any taxes or governmental charges required to be paid with respect thereto as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, exchange, or replacement of Bonds or any portion thereof (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following interest payment date, or (ii) with respect to any Bond or portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date. To the extent possible, any new Bond issued in an exchange, replacement, or transfer of a Bond will be delivered to the Registered Owner or assignee of the Registered Owner not more than three business days after the receipt of the Bonds to be canceled and the written request as described above.

(g) ***Substitute Paying Agent/Registrar.*** The BCRUA covenants with the Registered Owners of the Bonds that at all times while the Bonds are outstanding the BCRUA will provide a competent and legally qualified bank, trust company, financial institution, or other agency to act as and perform the services of Paying Agent/Registrar for the Bonds under this Resolution, and that the Paying Agent/Registrar will be one entity. The BCRUA reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than ninety (90) days written notice to the Paying Agent/Registrar, to be effective not later than sixty (60) days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the BCRUA covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Resolution. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bonds, to the new Paying Agent/Registrar designated and appointed by the BCRUA. Upon any change in the Paying Agent/Registrar, the BCRUA promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each Registered Owner of the Bonds, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Resolution, and a certified copy of this Resolution shall be delivered to each Paying Agent/Registrar.

(h) ***Book-Entry-Only System.*** The Bonds issued in exchange for the Bonds initially issued and delivered to the Purchaser shall be issued in the form of a separate single fully registered Bond for each of the maturities thereof registered in the name of Cede & Co., as nominee of DTC, and except as provided in subsection (i) hereof, all of the Outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC. With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the BCRUA and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest on the Bonds. Without limiting the immediately preceding sentence, the BCRUA and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than a Registered Owner, as shown on the Registration Books, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than a Registered Owner, as shown in the Registration Books of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Resolution to the contrary but to the extent permitted by law, the BCRUA and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Registration Books as the absolute owner of such Bond for the purpose of payment of principal, premium, if any, and interest, with respect to such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Registered Owners, as shown in the Registration Books as provided in this Resolution, or their respective attorneys duly authorized in



writing, and all such payments shall be valid and effective to fully satisfy and discharge the BCRUA's obligations with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than a Registered Owner, as shown in the Registration Books, shall receive a Bond certificate evidencing the obligation of the BCRUA to make payments of principal, premium, if any, and interest pursuant to this Resolution. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Resolution with respect to interest checks being mailed to the Registered Owner at the close of business on the Record Date, the word "Cede & Co." in this Resolution shall refer to such new nominee of DTC.

(i) ***Successor Securities Depository; Transfers Outside Book-Entry-Only System.*** In the event that the BCRUA or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the BCRUA to DTC (as described in Section 35 of this Resolution) or DTC determines to discontinue providing its services with respect to the Bonds, the BCRUA shall (i) appoint a successor securities depository, qualified to act as such under Section 17A of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Registered Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Resolution.

(j) ***Payments to Cede & Co.*** Notwithstanding any other provision of this Resolution to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the representation letter of the BCRUA to DTC.

(k) ***Notice of Redemption.*** In addition to the method of providing a notice of redemption set forth in the FORM OF BOND, the Paying Agent/Registrar shall give notice of redemption of Bonds by mail, first-class postage prepaid at least thirty (30) days prior to a redemption date to each registered securities depository and to any national information service that disseminates redemption notices. In addition, in the event of a redemption caused by an advance refunding of the Bonds, the Paying Agent/Registrar shall send a second notice of redemption to the persons specified in the immediately preceding sentence at least thirty (30) days but not more than ninety (90) days prior to the actual redemption date. Any notice sent to the registered securities depositories or such national information services shall be sent so that they are received at least two (2) days prior to the general mailing or publication date of such notice. The Paying Agent/Registrar shall also send a notice of prepayment or redemption to the Registered Owner of any Bond who has not sent the Bonds in for redemption sixty (60) days after the redemption date. Each notice of redemption, whether required in the FORM OF BOND or in this Section, shall contain a description of the Bonds to be redeemed including the complete name of the Bonds, the

Series, the date of issue, the interest rate or rates, the maturity date, the CUSIP number, a reference to the certificate numbers and the amounts called of each certificate, the publication and mailing date for the notice, the date of redemption, the redemption price, the name of the Paying Agent/Registrar and the address at which the Bonds may be redeemed, including a contact person and telephone number. All redemption payments made by the Paying Agent/Registrar to the registered owners of the Bonds shall include a CUSIP number relating to each amount paid to such Registered Owner.

(1) ***Conditional Notice of Redemption.*** With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by the Resolution have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the BCRUA, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the BCRUA shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

**Section 6. FORM OF BOND.** The form of the Bond, including the form of the Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State, with respect to the Bonds initially issued and delivered pursuant to this Resolution, shall be, respectively, substantially as set forth in Exhibit "C", with such appropriate variations, omissions, or insertions as are permitted or required by this Resolution and any Award Certificate including specifically information relating to payment dates, the Bond date and redemption provisions.

**Section 7. PLEDGE OF BOND PAYMENTS.** (a) ***Pledge.*** The BCRUA hereby covenants and agrees that the Bond Payments are hereby irrevocably pledged to the payment and security of the Bonds Similarly Secured including the establishment and maintenance of the special funds or accounts created and established on the books and records of the BCRUA for the payment and security thereof, all as hereinafter provided; and it is hereby resolved that the Bonds Similarly Secured, and the interest thereon, shall constitute a lien on and pledge of the Bond Payments and be valid and binding without any physical delivery thereof or further act by the BCRUA, and the lien created hereby on the Bond Payments for the payment and security of the Bonds Similarly Secured shall be prior in right and claim as to any other indebtedness, liability, or obligation of the BCRUA or the BCRUA Project payable pursuant to the terms of the Contract. The BCRUA shall deposit the Bond Payments, as collected and received, into a separate fund and account on the books and records of the BCRUA known as the "Round Rock's Debt Service Fund," which has previously been created and is hereby confirmed, to be utilized pursuant to the Contract and Sections 9 and 12 hereof to pay the Bonds; provided, however, that the Board of the BCRUA may utilize any revenues, including those generated by the Contract, in excess of the Debt Service Requirements on the Bonds Similarly Secured for any lawful purpose in accordance with this Resolution and the Contract.

(b) **Perfection of Pledge.** Chapter 1208, as amended, Texas Government Code, applies to the issuance of the Bonds Similarly Secured and the lien on and pledge of Bond Payments granted by the BCRUA under subsection (a) of this Section, and such pledge is therefore valid, effective, and perfected. If State law is amended at any time while the Bonds Similarly Secured are outstanding and unpaid such that the pledge of the Bond Payments granted by the BCRUA is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve to the Registered Owners of the Bonds Similarly Secured the perfection of the security interest in this pledge, the Board agrees to take such measures as it determines are reasonable and necessary under State law to comply with the applicable provisions of Chapter 9, as amended, Texas Business & Commerce Code and enable a filing to perfect the security interest in this pledge to occur.

**Section 8. RATES AND CHARGES.** For the benefit of the Registered Owners of the Bonds Similarly Secured and in addition to all provisions and covenants in the laws of the State and in this Resolution, the Contract between the BCRUA and Round Rock expressly stipulates and agrees, while any of the Bonds Similarly Secured are Outstanding, Round Rock will fix and collect such rates and charges for services to be supplied by the Round Rock System as will produce gross revenues at all times during the term of the Contract in an amount equal to pay all of the expenses of operation and maintenance of the Round Rock System including Annual Payments and Bond Payments under the Contract and all other amounts required by the laws and the provisions of the ordinances or resolutions authorizing the Round Rock Utility Bonds or other obligations now or hereafter outstanding payable, in whole or in part, from the net revenues of the Round Rock System, including the amounts required to pay all principal of and interest on such Round Rock Utility Bonds and other obligations. The BCRUA hereby expressly stipulates that it will maintain rates and charges through the Bond Payments to meet the debt service requirements on the Bonds Similarly Secured and agrees that it will take all appropriate action to enforce such terms of the Contract while any of the Bonds Similarly Secured are Outstanding.

The Registered Owners shall never have the right to demand payment for the Bonds out of any funds raised or to be raised from taxation by Round Rock or the BCRUA.

**Section 9. DISTRIBUTION OF BOND PAYMENTS.** After the Bond Payments have been received by the BCRUA such payments shall be further deposited into the Debt Service Fund as required by this Resolution.

**Section 10. DEBT SERVICE FUND; CONSTRUCTION FUND; ESCROW FUND.** (a) **Debt Service Fund.** For purposes of providing funds to pay the principal of and interest on the Bonds Similarly Secured as the same become due and payable, the BCRUA agrees to maintain, at the Depository, a separate and special fund or account to be created and known as the "Brushy Creek Regional Utility Authority, Inc. City of Round Rock, Texas Contract Revenue Bonds (Brushy Creek Regional Water Treatment and Distribution Project), Debt Service Fund" (the "Debt Service Fund"). The BCRUA covenants that there shall be deposited into the Debt Service Fund prior to each principal and interest payment date solely from the available Bond Payments made by Round Rock pursuant to Section 9 of this Resolution an amount equal to one hundred per cent (100%) of the amount required to fully pay the interest on and the principal of

the Bonds Similarly Secured then falling due and payable, such deposits to pay maturing principal and accrued interest on the Bonds Similarly Secured to be made in substantially equal monthly installments on or before the first day of each month. If the Bond Payments in any month are insufficient to make the required payments into the Debt Service Fund, then the amount of any deficiency in such payment shall be added to the amount otherwise required to be paid into the Debt Service Fund in the next month.

The required monthly deposits to the Debt Service Fund for the payment of principal of and interest on the Bonds Similarly Secured shall continue to be made as hereinabove provided until such time as (i) the total amount on deposit in the Debt Service Fund is equal to the amount required to fully pay and discharge all Outstanding Bonds Similarly Secured (principal and interest) or, (ii) the Bonds Similarly Secured are no longer Outstanding.

Any surplus proceeds from the sale of the Bonds, including investment income therefrom, not expended for authorized purposes shall be deposited into the Debt Service Fund, and such amounts (i.e., accrued and investment interest) so deposited into the Debt Service Fund shall reduce the sum otherwise required to be deposited in the Debt Service Fund from Bond Payments.

(b) **Construction Fund.** The BCRUA hereby creates and establishes and shall maintain on the books and records of the BCRUA a separate fund or account to be entitled the "Brushy Creek Regional Utility Authority, Inc. City of Round Rock, Texas Contract Revenue Bonds (Brushy Creek Regional Water Treatment and Distribution Project), Series 2023, Construction Fund" for use by the BCRUA for payment of Round Rock's share of the BCRUA Project. The BCRUA shall deposit the net proceeds from the sale of the Bonds released from escrow as provided in Section 10(c) below into the Construction Fund as provided in this Resolution. Funds in the Construction Fund shall be used for payment of Round Rock's share of BCRUA Project Costs. Upon payment of all such costs, any moneys remaining on deposit in the Construction Fund shall be transferred to the Debt Service Fund.

(c) **Escrow Fund.** The Escrow Agreement between the BCRUA and the escrow agent named therein (the "Escrow Agent") substantially in the form and content presented at this meeting and shown on Exhibit "E" attached hereto, specifying the duties and responsibilities of the BCRUA and the Escrow Agent, is hereby approved and the BCRUA Representative is hereby authorized and directed to execute the Escrow Agreement on behalf of the BCRUA. The BCRUA Representative in the Award Certificate shall select an eligible institution to serve as Escrow Agent.

On the closing date, the BCRUA shall cause the proceeds from the sale of the Bonds to be deposited into the Escrow Fund or, if agreed to by the Purchaser, all or a portion of the proceeds of the Bonds may be deposited into the Construction Fund.

Moneys disbursed from the Escrow Fund established pursuant to the Escrow Agreement shall be applied only for the costs of issuance of the Bonds or the BCRUA Project Costs.

The security for, and the investment of, funds on deposit in the Escrow Fund shall be governed by the provisions of the Escrow Agreement.

**Section 11. DEFICIENCIES - EXCESS BOND PAYMENTS.** (a) *Deficiencies.* If on any occasion there shall not be sufficient Bond Payments to make the required deposits into the Debt Service Fund, then such deficiency shall be cured as soon as possible from the next available unallocated Bond Payments and such payments shall be in addition to the amounts required to be paid into these funds or accounts during such month or months.

(b) *Excess Bond Payments.* Subject to making the required deposits to the Debt Service Fund when and as required by this Resolution, any resolution authorizing the issuance of any currently Outstanding Bonds Similarly Secured or any resolution authorizing the issuance of Additional Bonds, any excess Bond Payments may be used by the BCRUA for any lawful purpose including, but not limited to, the redemption of any Bonds Similarly Secured.

**Section 12. PAYMENT OF BONDS.** While any of the Bonds Similarly Secured are Outstanding, the General Manager or other authorized BCRUA official, shall cause to be transferred to the Paying Agent/Registrar therefor, from funds on deposit in the Debt Service Fund, if necessary, amounts sufficient to fully pay and discharge promptly each installment of interest on and principal of the Bonds Similarly Secured as such installment accrues or matures; such transfer of funds must be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar for the Bonds at the close of the Business Day next preceding the date a debt service payment is due on the Bonds Similarly Secured.

**Section 13. INVESTMENTS.** Funds held in any fund or account created, established, or maintained pursuant to this Resolution shall be invested as permitted by the provisions of the BCRUA investment policy and the Public Funds Investment Act, as amended, Chapter 2256, Texas Government Code and secured (to the extent not insured by the Federal Deposit Insurance Corporation) to the fullest extent required by the Public Funds Collateral Act, as amended, Chapter 2257, Texas Government Code. All interest and income derived from deposits and investments in any fund shall immediately be credited to, and any losses debited from, the fund from which such funds were derived. All such investments shall be sold promptly when necessary to prevent any default in connection with the Bonds.

**Section 14. ISSUANCE OF ADDITIONAL BONDS.** In addition to the right to issue bonds of inferior lien as authorized by the laws of this State, the BCRUA reserves the right hereafter to issue Additional Bonds. The Additional Bonds, when issued, shall be payable from and secured by a lien on and pledge of the Bond Payments in the same manner and to the same extent as the Bonds and the other Bonds Similarly Secured, and shall in all respects be of equal dignity. The Additional Bonds may be issued in one or more series provided, however, that no Additional Bonds, shall be issued unless and until the following conditions have been met:

(i) Except for a refunding to cure a default, the BCRUA is not then in default as to any covenant, condition or obligation prescribed in the resolutions authorizing the issuance of the Bonds Similarly Secured or the Contract (including any amendment or supplement thereto) and the funds under the resolution authorizing the same contains the amounts then required to be therein;

(ii) A consulting engineer certifies to the BCRUA the need for an estimated amount of additional financing required for completion, expansion, enlargement or improvement of the BCRUA Project as now or hereafter defined in the Contract; provided, however this certification shall not be necessary for the issuance of any refunding bonds;

(iii) Round Rock, shall have approved the resolution(s) authorizing the issuance of the Additional Bonds as to form and content and acknowledged that the payment of principal of and interest on such Additional Bonds is payable, in whole or in part, from the Bond Payments to be made to the BCRUA under and pursuant to the Contract;

(iv) The resolution authorizing the issuance of the Additional Bonds provides for deposits to be made to the Debt Service Fund in amounts sufficient to pay the principal of and interest on such Additional Bonds as the same become due;

(v) Based upon an opinion of legal counsel to the BCRUA that there are legal, valid and bindings contracts then in effect pursuant to which Round Rock and others, if any, which are parties to such contracts are obligated to make payments to the BCRUA during each fiscal year (including periods when services of the BCRUA Project may not be available to such contracting parties and others) in such amounts as shall be necessary to provide to the BCRUA sufficient funds to pay when due all principal and interest on all Bonds, Additional Bonds and other Bonds Similarly Secured to be Outstanding after the issuance of the proposed Additional Bonds; and

(vi) So long as any Bonds that will be Outstanding after the issuance of the proposed Additional Bonds are owned by the Purchaser, the BCRUA shall have demonstrated to the satisfaction of the Executive Administrator of the Purchaser that Bond Payments will be sufficient for the repayment of all of the Bonds, Additional Bonds and other Bonds Similarly Secured to be Outstanding after the issuance of the proposed Additional Bonds.

The Bonds Similarly Secured may be refunded (pursuant to any law then available) upon such terms and conditions as the Board of the BCRUA may deem to be in the best interest of the BCRUA; provided, however, such refunding bonds do not have to comply with paragraph (ii) of this Section 14.

**Section 15. SPECIAL PROJECT BONDS.** The BCRUA further reserves the right to issue bonds in one or more installments for the purchase, construction, improvement, extension, replacement, enlargement or repair of utility facilities necessary under a contract or contracts with persons, corporations, municipal corporations, political subdivisions, or entities including Round Rock, such bonds to be payable from and secured by the proceeds of such contract or contracts (other than the Contract). The BCRUA further reserves the right to refund such bonds and secure the payment of the debt service requirements on the refunding bonds in the same manner or as otherwise permitted by the laws of the State.

**Section 16. MAINTENANCE OF BCRUA PROJECT - INSURANCE.** The BCRUA covenants, agrees, and affirms its covenants that while the Bonds Similarly Secured remain outstanding it will maintain and operate the BCRUA Project with all possible efficiency and maintain casualty and other insurance on the properties of the BCRUA Project and its

operations of a kind and in such amounts customarily carried by municipal corporations in the State engaged in a similar type of business (which must be in an amount sufficient to protect the interests of the Registered Owners of the Bonds Similarly Secured in the BCRUA Project); and that it will faithfully and punctually perform all duties with reference to the BCRUA Project required by the laws of the State. All money received from losses under such insurance policies, other than public liability policies, shall be retained for the benefit of the Registered Owners of the Bonds Similarly Secured until and unless the proceeds are paid out in making good the loss or damage in respect of which such proceeds are received, either by replacing the property destroyed or repairing the property damaged, and adequate provision for making good such loss or damage must be made within ninety (90) days after the date of loss. The payment of premiums for all insurance policies required under the provisions hereof shall be considered Maintenance and Operating Expenses of the BCRUA Project. Nothing in this Resolution shall be construed as requiring the BCRUA to expend any funds which are derived from sources other than the operation of the BCRUA Project but nothing herein shall be construed as preventing the BCRUA from doing so.

**Section 17. RECORDS AND ACCOUNTS - ANNUAL AUDIT.** The BCRUA covenants, agrees, and affirms its covenants that so long as any of the Bonds Similarly Secured remain Outstanding, it will keep and maintain separate and complete records and accounts pertaining to the operations of the BCRUA Project in which complete and correct entries shall be made of all transactions relating thereto as provided by applicable law. The Registered Owners of any Bonds Similarly Secured or any duly authorized agent or agents of such Registered Owners shall have the right to inspect the BCRUA Project and all properties comprising the same. The BCRUA further agrees that following (and in no event later than six (6) months after) the close of each Fiscal Year, it will cause an audit of such books and accounts to be made by an independent firm of Certified Public Accountants. The BCRUA will provide such the annual audit performed by an independent firm of Certified Public Accountants as set forth in Section 30 of this Resolution. Expenses incurred in making the annual audit of the operations of the BCRUA Project are to be regarded as Maintenance and Operating Expenses of the BCRUA Project.

**Section 18. SALE OR ENCUMBRANCE OF BCRUA PROJECT.** While any Bonds remain Outstanding, the BCRUA will not sell, dispose of or further encumber the BCRUA Project or any substantial part thereof; provided, however, that this provision shall not prevent the BCRUA from (i) pledging the Bond Payments to Additional Bonds or Special Project Bonds as set forth in Sections 14 and 15 of this Resolution or (ii) disposing of any part of the BCRUA Project which is being replaced or is deemed by the BCRUA to be obsolete, worn out, surplus or no longer needed for the proper operation of the BCRUA Project. Any agreement pursuant to which the BCRUA contracts with a person, corporation, municipal corporation or political subdivision to operate the BCRUA Project or to lease and/or operate all or part of the BCRUA Project shall not be considered as an encumbrance of the BCRUA Project; provided, however, no such agreement shall impair the pledge and lien on the Bond Payments.

**Section 19. COMPETITION.** To the extent it legally may, the BCRUA will not grant any franchise or permit for the acquisition, construction or operation of any competing facilities which might be used as a substitute for the BCRUA Project and will prohibit the operation of any such competing facilities.

**Section 20. SPECIAL COVENANTS.** The BCRUA further covenants and agrees that: (a) ***Title.*** The BCRUA lawfully owns or will own and is or will be lawfully possessed of the lands or easements upon which its BCRUA Project is and will be located, and has or will purchase good and indefeasible estate in such lands in fee simple, or has or will lawfully obtain any necessary easements to operate the BCRUA Project, and it warrants that it has or will obtain and will defend, the title to all the aforesaid lands and easements for the benefit of the Registered Owners of the Bonds against the claims and demands of all persons whomsoever, that it is lawfully qualified to pledge the Bond Payments to the payment of the Bonds Similarly Secured, in the manner prescribed herein, and that it has lawfully exercised such rights.

(b) ***Liens.*** The BCRUA will from time to time and before the same become delinquent pay and discharge all taxes, assessments, and governmental charges, if any, which shall be lawfully imposed upon it, or its BCRUA Project, and it will pay all lawful claims for rents, royalties, labor, materials, and supplies which if unpaid might by law become a lien or charge upon its BCRUA Project, provided, however, that no such tax, assessment, or charge, and that no such claims which might be or other lien or charge, shall be required to be paid while the validity of the same shall be contested in good faith by the BCRUA.

(c) ***Performance.*** The BCRUA will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in the resolutions authorizing the issuance of Bonds Similarly Secured, and in each and every of the Bonds Similarly Secured and pay from the Bond Payments the principal of and interest on every Bonds Similarly Secured on the dates and in the places and manner prescribed in such resolutions and Bonds Similarly Secured; and that it will, at the times and in the manner prescribed, or cause to be deposited from the Bond Payments the amounts required to be deposited into the Debt Service Fund; and the Registered Owners of the Bonds Similarly Secured may require the BCRUA, its officials, agents, and employees to carry out, respect, or enforce the covenants and obligations of this Resolution or any resolution authorizing the issuance of Bonds Similarly Secured, as the case may be, including, but without limitation, the use and filing of mandamus proceedings, in any court of competent jurisdiction, against the BCRUA, its officials, agents, and employees.

(d) ***Legal Authority.*** The BCRUA is duly authorized under the laws of the State to issue the Bonds Similarly Secured; that all action on its part for the authorization and issuance of the Bonds Similarly Secured has been duly and effectively taken, and the Bonds Similarly Secured in the hands of the Registered Owners thereof are and will be valid and enforceable special obligations of the BCRUA in accordance with their terms payable solely from the Bond Payments.

(e) ***Budget.*** The BCRUA will prepare, adopt, and place into effect an annual budget (the "Annual Budget") for Maintenance and Operation Expenses of the BCRUA Project for each Fiscal Year, including in each Annual Budget such items as are customarily and reasonably contained in a utility system budget under generally accepted accounting procedures.

(f) ***Permits.*** The BCRUA will comply with all of the terms and conditions of any and all franchises, permits, and authorizations applicable to or necessary with respect to the BCRUA Project and which have been obtained from any governmental agency; and the BCRUA has or will



obtain and keep in full force and effect all franchises, permits, authorizations, and other requirements applicable to or necessary with respect to the acquisition, construction, equipment, operation, and maintenance of the BCRUA Project.

**Section 21. LIMITED OBLIGATIONS OF THE BCRUA.** The Bonds Similarly Secured are limited, special obligations of the BCRUA payable from and equally and ratably secured solely by a lien on and pledge of the Bond Payments, and the Registered Owners thereof shall never have the right to demand payment of the principal of or interest on the Bonds Similarly Secured from any funds raised or to be raised through taxation by Round Rock or the BCRUA.

**Section 22. DEFAULT AND REMEDIES.** (a) *Events of Default.* Each of the following occurrences or events for the purpose of this Resolution is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the BCRUA, the failure to perform which materially, adversely affects the rights of the Registered Owners of the Bonds, including, but not limited to, their prospect or ability to be repaid in accordance with this Resolution, and, if such default is capable of cure, the continuation thereof for a period of sixty (60) days after notice of such default is given by any Registered Owner to the BCRUA; or

(iii) a default by Round Rock under the Contract.

(b) *Remedies for Event of Default.*

(i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the BCRUA, or any official, officer or employee of the BCRUA in their official capacity, for the purpose of protecting and enforcing the rights of the Registered Owners under this Resolution, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies. The Registered Owners are third party beneficiaries to the Contract with the ability to enforce the provisions of the Contract for such period that a default exists under the Contract.

(ii) Upon the happening of any Event of Default, then and in every case the Purchaser, acting as a Registered Owner of the Bonds, may exercise all remedies available to it in law or equity, and any provision of this Resolution or the Bonds that restricts or limits the Purchaser's full exercise of such remedies shall be of no force and effect.

(iii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Bonds then Outstanding.

(iv) As long as an Insurer is not in payment default on the related Insurance Policy for the Bonds, the Insurer shall be deemed to be the sole Registered Owner of such Bonds insured by it for purposes of enforcing remedies in the Event of Default under this Resolution.

(c) ***Remedies Not Exclusive.***

(i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Resolution, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Resolution.

(ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(iii) By accepting the delivery of a Bond authorized under this Resolution, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Resolution do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the BCRUA or the Board.

(iv) None of the members of the Board of Directors, nor any other official or officer, agent, or employee of the BCRUA, shall be charged personally by the Registered Owners with any liability, or be held personally liable to the Registered Owners under any term or provision of this Resolution, or because of any Event of Default or alleged Event of Default under this Resolution.

**Section 23. AMENDMENT OF RESOLUTION.** (a) ***Amendments Without Consent.*** This Resolution and the rights and obligations of the BCRUA and of the Registered Owners of the Bonds may be modified or amended at any time without notice to or the consent of any Registered Owner of the Bonds or any Bonds Similarly Secured, solely for any one or more of the following purposes:

(i) To add to the covenants and agreements of the BCRUA contained in this Resolution, other covenants and agreements thereafter to be observed, or to surrender any right or power reserved to or conferred upon the BCRUA in this Resolution;

(ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this Resolution, upon receipt by the Board of an opinion of counsel, that the same is needed for such purpose, and will more clearly express the intent of this Resolution;

(iii) To supplement the security for the Bonds, replace or provide additional Credit Agreement, or change the form of the Bonds or make such other changes in the provisions hereof as the Board may deem necessary or desirable and which shall not, in the judgment of the Board, materially adversely affect the interests of the owners of the Outstanding Bonds;

(iv) To make any changes or amendments requested by any bond rating agency then rating or requested to rate the Bonds, as a condition to the issuance or maintenance of a rating, which changes or amendments do not, in the judgment of the Board, materially adversely affect the interests of the owners of the Outstanding Bonds;

(v) To make such changes, modifications or amendments as are permitted by Section 30(c) of this Resolution;

(vi) To make such other changes in the provisions hereof as the Board may deem necessary or desirable and which shall not, in the judgment of the Board, materially adversely affect the interests of the owners of the Outstanding Bonds; or

(vii) To assign the Contract to a trustee.

(b) ***Amendments With Consent.*** Subject to the other provisions of this Resolution, the Registered Owners of Outstanding Bonds aggregating 51% in Outstanding principal amount shall have the right from time to time to approve any amendment, other than amendments described in Subsection (a) of this Section, to this Resolution which may be deemed necessary or desirable by the Board; provided, however, that nothing herein contained shall permit or be construed to permit, without the approval of the owners of all of the Outstanding Bonds, the amendment of the terms and conditions in this Resolution or in the Bonds so as to:

- (1) Make any change in the maturity of the Outstanding Bonds;
- (2) Reduce the rate of interest borne by the Outstanding Bonds;
- (3) Reduce the amount of the principal payable on the Outstanding Bonds;
- (4) Modify the terms of payment of principal of or interest on the Outstanding Bonds, or impose any conditions with respect to such payment;
- (5) Affect the rights of the owners of less than all Bonds then Outstanding; or
- (6) Change the minimum percentage of the Outstanding principal amount of Bonds necessary for consent to such amendment.

(c) ***Notice.*** (i) If at any time the Board shall desire to amend this Resolution other than pursuant to subsection (a) above, the Board shall cause notice of the proposed amendment to be published in a financial newspaper or journal of general circulation in The City of New York, New York or the State including in the Texas Bond Reporter once during each calendar week for at least

two (2) successive calendar weeks. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the Paying Agent/Registrar for inspection by all owners of Bonds. Such publication is not required, however, if the Board gives or causes to be given such notice in writing to each Registered Owner of Bonds.

(ii) In the event S&P and/or Moody's maintains a rating on the Bonds, copies of any modification or amendment to this Resolution shall be sent to S&P and/or Moody's, as applicable, at least ten (10) days prior to the effective date thereof.

(d) ***Receipt of Consents.*** Whenever at any time not less than thirty (30) days, and within one (1) year, from the date of the first publication of said notice or other service of written notice of the proposed amendment the Board shall receive an instrument or instruments executed by all of the owners or the owners of at least 51% in Outstanding principal amount of Bonds, as appropriate, which instrument or instruments shall refer to the proposed amendment described in said notice and which specifically consent to and approve such amendment in substantially the form of the copy thereof on file as aforesaid, the Board may adopt the amendatory resolution in substantially the same form.

(e) ***Effect of Amendments.*** Upon the adoption by the Board of any resolution to amend this Resolution pursuant to the provisions of this Section, this Resolution shall be deemed to be amended in accordance with the amendatory resolution, and the respective rights, duties, and obligations of the BCRUA and all the owners of then Outstanding Bonds and all future Bonds shall thereafter be determined, exercised, and enforced under the resolution and this Resolution, as amended.

(f) ***Consent Irrevocable.*** Any consent given by any owner of Bonds pursuant to the provisions of this Section shall be irrevocable for a period of six (6) months from the date of the first publication or other service of the notice provided for in this Section, and shall be conclusive and binding upon all future owners of the same Bonds during such period. Such consent may be revoked at any time after six (6) months from the date of the first publication of such notice by the owner who gave such consent, or by a successor in title, by filing notice thereof with the Registrar and the BCRUA, but such revocation shall not be effective if the owners of 51% in Outstanding principal amount of Bonds, prior to the attempted revocation, consented to and approved the amendment.

(g) ***Ownership.*** For the purpose of this Section, the ownership and other matters relating to all Bonds registered as to ownership shall be determined from the Registration Books kept by the Paying Agent/Registrar therefor. The Paying Agent/Registrar may conclusively assume that such ownership continues until written notice to the contrary is served upon the Paying Agent/Registrar.

(h) ***Insurer Consent.*** Notwithstanding the foregoing provisions of this Section, so long as any Insurer is not in payment default under its policy, no amendment or supplement to this Resolution may become effective except upon obtaining the prior written consent of any such Insurer.

**Section 24. COVENANTS REGARDING TAX-EXEMPTION OF INTEREST ON THE BONDS.** (a) *Covenants.* The BCRUA covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Bonds as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "IRS Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the BCRUA covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Bonds or the projects financed or refinanced therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the IRS Code or, if more than 10 percent of the proceeds of the Bonds or the projects financed or refinanced therewith are so used, such amounts, whether or not received by the BCRUA, with respect to such private business use, do not, under the terms of this Resolution or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Bonds, in contravention of section 141(b)(2) of the IRS Code;

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Bonds or the projects financed or refinanced therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the IRS Code, to the governmental use;

(3) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Bonds (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the IRS Code;

(4) to refrain from taking any action which would otherwise result in the Bonds being treated as "private activity bonds" within the meaning of section 141(b) of the IRS Code;

(5) to refrain from taking any action that would result in the Bonds being "federally guaranteed" within the meaning of section 149(b) of the IRS Code;

(6) to refrain from using any portion of the proceeds of the Bonds, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the IRS Code) which produces a materially higher yield over the term of the Bonds, other than investment property acquired with:

(A) proceeds of the Bonds invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 90 days or less until such proceeds are needed for the purpose for which the Bonds are issued,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed ten (10) percent of the proceeds of the Bonds;

(7) to otherwise restrict the use of the proceeds of the Bonds or amounts treated as proceeds of the Bonds, as may be necessary, so that the Bonds do not otherwise contravene the requirements of section 148 of the IRS Code (relating to arbitrage);

(8) to refrain from using the proceeds of the Bonds or proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Bonds in contravention of the requirements of section 149(d) of the Code (relating to advance refundings);

(9) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Bonds) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the IRS Code and to pay to the United States of America, not later than sixty (60) days after the Bonds have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the IRS Code;

(10) to file or cause to be filed with the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Bonds are issued, an information statement concerning the Bonds, all under and in accordance with section 149(e) of the Code and the applicable Regulations promulgated thereunder; and

(b) ***Rebate Fund.*** In order to facilitate compliance with the above covenant (9), a "Rebate Fund" is hereby established by the BCRUA for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the IRS Code.

(c) ***Proceeds.*** The BCRUA understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Bonds. It is the understanding of the BCRUA that the covenants contained herein are intended to assure compliance with the IRS Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the IRS Code, as applicable to the Bonds, the BCRUA will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Bonds under section 103 of the IRS Code. In the event that regulations or rulings are hereafter promulgated which impose additional

requirements which are applicable to the Bonds, the BCRUA agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Bonds under section 103 of the IRS Code. In furtherance of such intention, the BCRUA hereby authorizes and directs the BCRUA Representative to execute any documents, certificates or reports required by the IRS Code and to make such elections, on behalf of the BCRUA, which may be permitted by the IRS Code as are consistent with the purpose for the issuance of the Bonds. This Resolution is intended to satisfy the official intent requirements set forth in Section 1.150-2 of the Treasury Regulations.

(d) *Allocation of, and Limitation on, Expenditures for the Project.* The BCRUA covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 2 of this Resolution (the "Project") on its books and records in accordance with the requirements of the IRS Code. The BCRUA recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the BCRUA recognizes that in order for proceeds to be expended under the IRS Code, the sale proceeds or investment earnings must be expended no more than sixty (60) days after the earlier of (1) the fifth (5<sup>th</sup>) anniversary of the delivery of the Bonds, or (2) the date the Bonds are retired. The BCRUA agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Bonds. For purposes of this subsection, the BCRUA shall not be obligated to comply with this covenant if it obtains an opinion of nationally-recognized bond counsel to the effect that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) *Disposition of Project.* The BCRUA covenants that the property constituting the BCRUA Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the BCRUA of cash or other compensation, unless the BCRUA obtains an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Bonds. For purposes of this subsection, the portion of the property comprising personal property and disposed of in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes of this subsection, the BCRUA shall not be obligated to comply with this covenant if it obtains an opinion of nationally-recognized bond counsel to the effect that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

**Section 25. RESOLUTION TO CONSTITUTE A CONTRACT; EQUAL SECURITY.** In consideration of the acceptance of the Bonds, the issuance of which is authorized hereunder, by those who shall hold the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the BCRUA and the Registered Owners from time to time of the Bonds and the pledge made in this Resolution by the BCRUA and the covenants and agreements set forth in this Resolution to be performed by the BCRUA shall be for the equal and proportionate benefit, security, and protection of all Registered Owners, without preference, priority, or distinction as to security or otherwise of any of the Bonds authorized hereunder over

any of the others by reason of time of issuance, sale, or maturity thereof or otherwise for any cause whatsoever, except as expressly provided in or permitted by this Resolution.

**Section 26. SEVERABILITY OF INVALID PROVISIONS.** If any one or more of the covenants, agreements, or provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements, or provisions and shall in no way affect the validity of any of the other provisions hereof or of the Bonds issued hereunder.

**Section 27. PAYMENT AND PERFORMANCE ON BUSINESS DAYS.** Except as provided to the contrary in the FORM OF BOND, whenever under the terms of this Resolution or the Bonds, the performance date of any provision hereof or thereof, including the payment of principal of or interest on the Bonds, shall occur on a day other than a Business Day, then the performance thereof, including the payment of principal of and interest on the Bonds, need not be made on such day but may be performed or paid, as the case may be, on the next succeeding Business Day with the same force and effect as if made on the date of performance or payment.

**Section 28. LIMITATION OF BENEFITS WITH RESPECT TO THE RESOLUTION.** With the exception of the rights or benefits herein expressly conferred, nothing expressed or contained herein or implied from the provisions of this Resolution or the Bonds is intended or should be construed to confer upon or give to any person other than the BCRUA, the Registered Owners, and the Paying Agent/Registrar, any legal or equitable right, remedy, or claim under or by reason of or in respect to this Resolution or any covenant, condition, stipulation, promise, agreement, or provision herein contained. This Resolution and all of the covenants, conditions, stipulations, promises, agreements, and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the BCRUA, the Registered Owners, and the Paying Agent/Registrar as herein and therein provided.

**Section 29. CUSTODY, APPROVAL, BOND COUNSEL'S OPINION, CUSIP NUMBERS, PREAMBLE AND INSURANCE.** The BCRUA Representative is hereby authorized to have control of the Bonds issued hereunder and all necessary records and proceedings pertaining to the Bonds pending their delivery and approval by the Attorney General of the State. The BCRUA Representative is hereby authorized, to the extent deemed necessary or advisable thereby, in the discretion thereof, to request that the Attorney General approve the Bonds as permitted by Chapter 1202, Texas Government Code, in which case the BCRUA Representative also is authorized to request the Comptroller of Public Accounts register the Bonds, and to cause an appropriate legend reflecting such approval and registration to appear on the Bonds and the substitute Bonds. The BCRUA Representative is hereby authorized to execute the engagement letter submitted herewith for McCall, Parkhurst & Horton L.L.P. to serve as the BCRUA's Bond Counsel for the issuance of the Bonds. The approving legal opinion of the BCRUA's Bond Counsel and the assigned CUSIP numbers may, at the option of the BCRUA, be printed on the Bonds and on any Bonds issued and delivered in exchange or replacement of any Bond, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Bonds. The preamble to this Resolution is hereby adopted and made a part of this Resolution



for all purposes. If insurance is obtained on any of the Bonds, the Bonds shall bear, as appropriate and applicable, a legend concerning insurance as provided by the municipal bond insurance company issuing any such insurance.

**Section 30. COMPLIANCE WITH RULE 15c2-12.** (a) *Annual Reports.* The BCRUA shall provide annually to the MSRB, (1) within six months after the end of each fiscal year of the BCRUA ending in or after 2023, financial statements of the BCRUA if audited financial statements of the BCRUA are then available, and (2) if not available by such time, audited financial statements of the BCRUA, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with generally accepted auditing standards by a certified public account or licensed public accountant or such other accounting principles as the BCRUA may be required to employ from time to time pursuant to state law or regulation, and (ii) audited, if the BCRUA commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within 12 months after any such fiscal year end, then the BCRUA shall file unaudited financial statements within such 12-month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available.

If the BCRUA changes its fiscal year, it will file notice of the change (and of the date of the new fiscal year end) with the MSRB prior to the next date by which the BCRUA otherwise would be required to provide financial information and operating data pursuant to this Section.

(b) *Event Notices.* The BCRUA shall file notice of any of the following events with respect to the Bonds with the MSRB in a timely manner and not more than 10 business days after the occurrence of the event:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) Modifications to rights of holders of the Bonds, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances;

- (10) Release, substitution, or sale of property securing repayment of the Bonds, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership, or similar event of the BCRUA;
- (13) The consummation of a merger, consolidation, or acquisition involving the BCRUA or the sale of all or substantially all of the assets of the BCRUA, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material;
- (15) Incurrence of a Financial Obligation of the BCRUA, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the BCRUA, any of which affect security holders, if material; and
- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the BCRUA, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the BCRUA in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the BCRUA, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers of the BCRUA in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the BCRUA, and (b) the BCRUA intends the words used in the immediately preceding paragraphs (15) and (16) and the definition of Financial Obligation in this Section to have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

The BCRUA shall file notice with the MSRB, in a timely manner, of any failure by the BCRUA to provide financial information or operating data in accordance with subsection (a) of this Section by the time required by such subsection.

(c) ***Limitations, Disclaimers, and Amendments.*** The BCRUA shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the BCRUA remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the BCRUA in any event will give notice of any deposit that causes the Bonds to be no longer Outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The BCRUA undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the BCRUA's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The BCRUA makes no representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE BCRUA BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE BCRUA, WHETHER NEGLIGENT OR WITH OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR *MANDAMUS* OR SPECIFIC PERFORMANCE.

No default by the BCRUA in observing or performing its obligations under this Section shall constitute a breach of or default under this Resolution for purposes of any other provision of this Resolution.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the BCRUA under federal and state securities laws.

The provisions of this Section may be amended by the BCRUA from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the BCRUA, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment as well as such changed circumstances, and (2) either (a) the holders of a majority in aggregate principal amount of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the BCRUA (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the holders and beneficial owners of the Bonds. The BCRUA may also repeal or amend the provisions of this Section if the SEC amends or repeals the applicable provisions of the Rule or any court of final jurisdiction enters judgment that such provisions of the Rule are invalid, and the BCRUA also may amend the provisions of this Section in its discretion in any other manner or circumstance, but in either case only if and to the extent that the provisions of this sentence would not have prevented an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds, giving effect to (i) such provisions as so amended and (ii) any amendments or interpretations of the Rule. If the BCRUA so amends the provisions of this Section, the BCRUA shall include with any amended financial information or operating data next provided in accordance with this subsection (a) of this Section an explanation, in narrative

form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

(d) Format, Identifying Information, and Incorporation by Reference. All financial information, operating data, financial statements, and notices required by this Section to be provided to the MSRB shall be provided in an electronic format and be accompanied by identifying information prescribed by the MSRB.

Financial information and operating data to be provided pursuant to subsection (a) of this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document) available to the public on the MSRB's Internet Web site or filed with the SEC.

**Section 31. APPLICATION OF BOND PROCEEDS.** Proceeds from the sale of the Bonds shall, promptly upon receipt thereof, be applied by the BCRUA Representative as follows an amount sufficient to accomplish the purposes of Section 2 shall be deposited in the Escrow Fund or Construction Fund as authorized by the Texas Water Development Board.

Any sale proceeds of the Bonds remaining after making all deposits and payments provided for above shall be deposited to the Debt Service Fund as provided in Section 10 and applied to the payment of interest on the Bonds.

**Section 32. DEFEASANCE PROVISIONS.** (a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Bond") within the meaning of this Resolution, except to the extent provided in subsections (c) and (e) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption or the establishment of irrevocable provisions for the giving of such notice) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar or an eligible trust company or commercial bank for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the BCRUA with the Paying Agent/Registrar or an eligible trust company or commercial bank for the payment of its services until all Defeased Bonds shall have become due and payable or (3) any combination of (1) and (2). At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the Bond Payments as provided in this Resolution, and such principal and interest shall be payable solely from such money or Defeasance Securities, and thereafter the BCRUA will have no further responsibility with respect to amounts available to such Paying Agent/Registrar (or other financial institution permitted by applicable law) for the payment of such Defeased Bond, including any insufficiency therein caused by the failure of the Paying Agent/Registrar (or other financial institution permitted by law) to receive payment when due on the Defeasance Bond.

(b) The deposit under clause (ii) of subsection (a) shall be deemed a payment of a Bond as aforesaid when proper notice of redemption of such Bonds shall have been given or upon the establishment of irrevocable provisions for the giving of such notice, in accordance with this Resolution. Any money so deposited with the Paying Agent/Registrar or an eligible trust company or commercial bank as provided in this Section may at the discretion of the BCRUA also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section which is not required for the payment of such Bond and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the BCRUA.

(c) Notwithstanding any provision of any other Section of this Resolution which may be contrary to the provisions of this Section, all money or Defeasance Securities set aside and held in trust pursuant to the provisions of this Section for the payment of principal of the Bonds and premium, if any, and interest thereon, shall be applied to and used solely for the payment of the particular Bonds and premium, if any, and interest thereon, with respect to which such money or Defeasance Securities have been so set aside in trust. Until all Defeased Bonds shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Bonds the same as if they had not been defeased, and the BCRUA shall make proper arrangements to provide and pay for such services as required by this Resolution.

(d) Notwithstanding anything elsewhere in this Resolution, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section for the payment of Bonds and such Bonds shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the registered owner of each Bond affected thereby.

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Bond to be paid at its maturity, the BCRUA retains the right under State law to later call that Defeased Bond for redemption in accordance with the provisions of this Resolution, the BCRUA may call such Defeased Bond for redemption upon complying with the provisions of State law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Bond as though it was being defeased at the time of the exercise of the option to redeem the Defeased Bond and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Bond.

**Section 33. COMPLIANCE WITH THE TEXAS WATER DEVELOPMENT BOARD'S RULES AND REGULATIONS.** The provisions of this Section shall apply so long as the Bonds, or any of them, are owned by the Texas Water Development Board (the "TWDB"). The BCRUA will comply with all of the requirements contained in the resolution or resolutions adopted by the TWDB with respect to the issuance of the Bonds. In addition, in compliance with the TWDB's State Water Implementation Fund for Texas Loan Program Rules, the BCRUA agrees and covenants:

(a) Any loan proceeds from the Bonds that are determined to be surplus proceeds remaining after completion of one or more of the projects described in Section 2 hereof shall be used in a manner approved by the Executive Administrator. The foregoing notwithstanding, it is further provided, however, that any interest earnings on monies on deposit in the Construction Fund which are required to be rebated to the United States of America pursuant to Section 24 hereof in order to prevent the Bonds from being arbitrage bonds shall be transferred to the "Rebate Fund" hereinafter established and shall not be considered as interest earnings for purposes of this subsection.

(b) The BCRUA is solely responsible for liability resulting from acts or omissions of the BCRUA, its employees, contractors, or agents arising from the sampling, analysis, transport, storage, treatment, recycling and disposition of any contaminated sewage sludge, contaminated sediments or contaminated media that may be generated by the BCRUA, its contractors, consultants, agents, officials and employees as a result of activities relating to the project, to the extent permitted by law.

(c) BCRUA shall report to the TWDB the amounts of project funds, if any, that were used to compensate historically underutilized businesses that worked on the project, in accordance with 31 TAC § 363.1312.

(d) The TWDB will purchase the Bonds, acting through the TWDB's designated trustee, and the Bonds shall be registered in the name of Cede & Co. and closed in book-entry form in accordance with 31 TAC Section 363.42(c)(1).

(e) Neither the BCRUA nor a related party thereto will acquire any of the TWDB's source series bonds in an amount related to the amount of the Bonds to be acquired from the BCRUA by the TWDB.

(f) Payments of principal and interest on the Bonds will be made to the TWDB via wire transfer at no cost to the TWDB.

(g) The BCRUA will provide the TWDB with copies of "as built plans" pertaining to the projects financed, in whole or in part, with any funds of the TWDB.

(h) Within 60 days of completion of the construction of the projects financed, in whole or in part, by the loan evidenced by the Bonds, BCRUA will provide a final accounting to the TWDB of the total costs of the projects; any surplus shall be used in a manner as approved by the Executive Administrator.

(i) So long as any Bonds are held by the TWDB, BCRUA will provide to the TWDB's Executive Administrator, within 180 days of the end of BCRUA fiscal year, a copy of each of its annual audited financial statements, to be submitted without charge.

(j) The BCRUA will maintain the records and accounts described in Section 17 hereof in accordance with generally accepted accounting principles necessary to demonstrate compliance

with the TWDB's financial assistance related legal and contractual provisions, in accordance with 31 TAC § 363.42(a)(2)(G).

(k) Upon request by the Executive Administrator, the BCRUA shall submit annual audits of Round Rock for the Executive Administrator's review.

**Section 34. FURTHER PROCEDURES.** The President of the Board, the BCRUA Representative, and all other officers, employees, and agents of the Board, and each of them, shall be and they are hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the Board all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Resolution, the Bonds, the sale and delivery of the Bonds and fixing all details in connection therewith. The BCRUA Representative is authorized to sign this Resolution.

**Section 35. DTC LETTER OF REPRESENTATION.** The Board approves execution by the BCRUA Representative and delivery to DTC of a "Blanket Letter of Representations" with respect to the utilization by the Board of DTC's book-entry-only system and the Board intends to utilize such book-entry-only system in connection with the Bonds.

**Section 36. BOND INSURANCE.** (a) In connection with the sale of the Bonds, the BCRUA may obtain municipal bond insurance policies from one or more municipal bond insurers (the "Insurer") to guarantee the full and complete payment required to be made by or on behalf of the Board on some or all of the Bonds as determined by the BCRUA Representative. The BCRUA Representative is hereby authorized to sign a commitment letter with the Insurer and to pay the premium for the bond insurance policies at the time of the delivery of the Bonds out of the proceeds of sale of the Bonds or from other available funds and to execute such other documents and certificates as necessary in connection with the bond insurance policies as he or she may deem appropriate. Printing on Bonds covered by the bond insurance policies of a statement describing such insurance, in form and substance satisfactory to the Insurer and the BCRUA Representative, is hereby approved and authorized. The Award Certificate may contain provisions related to the bond insurance policies, including payment provisions thereunder, and the rights of the Insurer or Insurers, and any such provisions shall be read and interpreted as an integral part of this Resolution.

(b) As long as an Insurer is not in default on the related Insurance Policy for the Bonds, the Insurer of a Series shall be deemed to be the sole Registered Owner of such Bonds insured by it for all purposes of this Resolution.

**Section 37. REPEAL OF CONFLICTING RESOLUTIONS.** All resolutions and all parts of any resolutions which are in conflict or inconsistent with this Resolution are hereby repealed and shall be of no further force or effect to the extent of such conflict or inconsistency.

**Section 38. PUBLIC NOTICE.** It is hereby found and determined that each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the Meeting at which this Resolution was adopted; that this Resolution would be introduced and considered for adoption at said meeting; and that said

meeting was open to the public, and public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

**Section 39. NO PERSONAL LIABILITY.** No covenant or agreement contained in the Bonds, this Resolution or any corollary instrument shall be deemed to be the covenant or agreement of any member of the Board or any officer, agent, employee or representative of the Board in his or her individual capacity, and neither the directors, officers, agents, employees or representatives of the Board nor any person executing the Bonds shall be personally liable thereon or be subject to any personal liability for damages or otherwise or accountability by reason of the issuance thereof, or any actions taken or duties performed, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the issuance of the Bonds.

**Section 40. CREDIT AGREEMENTS.** To the extent permitted by law, the BCRUA reserves the right to enter into Credit Agreements in connection with the Bonds, upon the written opinion of the BCRUA Representative that such Credit Agreements are in the best interest of the BCRUA given the market conditions at the time. The Credit Agreements will constitute a Credit Agreement as defined in this Resolution. Credit Agreements and the obligations thereunder may, pursuant to their terms, constitute (i) debt secured by a pledge of the Bond Payments on parity with the Bonds Similarly Secured (ii) debt secured by an inferior lien secured by a pledge of the Bond Payments subordinate to the Bonds Similarly Secured or (iii) partially parity and partially inferior lien.

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**PASSED AND ADOPTED** on the 25th day of October, 2023.

**BRUSHY CREEK REGIONAL  
UTILITY AUTHORITY, INC.**

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BCRUA Representative

EXHIBIT A – Definitions  
EXHIBIT B – Form of Award Certificate  
EXHIBIT C – Form of Bond  
EXHIBIT D – Paying Agent/Registrar Agreement  
EXHIBIT E – Escrow Agreement

## **EXHIBIT A**

### **DEFINITIONS**

As used in this Resolution, the following terms and expressions shall have the meanings set forth below, unless the text in this Resolution specifically indicates otherwise.

The term *Additional Bonds* shall mean the obligations issued in accordance with the terms and conditions prescribed in Section 14 hereof.

The term *Annual Payments* shall have the meaning given in the Contract.

The term *Authorized Denominations* shall mean with respect to the Bonds the denomination of \$5,000 or any integral multiple thereof.

The term *Average Annual Debt Service Requirements* shall mean that average amount which, at the time of computation, will be required to pay the Debt Service Requirements on all outstanding Bonds Similarly Secured when due (either at Stated Maturity or mandatory redemption) and derived by dividing the total of such Debt Service Requirement by the number of Fiscal Years then remaining before Stated Maturity of such Bonds Similarly Secured. For purposes of this definition, a fractional period of a Fiscal Year shall be treated as an entire Fiscal Year. Capitalized interest payments provided from Bond proceeds shall be excluded in making the aforementioned computation.

The term *Award Certificate* shall mean the Certificate executed by the BCRUA Representative in connection with the Bonds that establishes the terms of the Bonds issued pursuant to Section 3 of this Resolution.

The term *BCRUA* shall mean Brushy Creek Regional Utility Authority, Inc. and any other public agency succeeding to the powers, rights, privileges and functions of the BCRUA and, when appropriate, the Board of Directors of the BCRUA.

The term *BCRUA Project* shall mean, collectively, the Land Interests and the improvements described in the recitals to the Contract and further described in the Preliminary Design Report, and as shown on Exhibit "D," Exhibit "D-1," Exhibit "D-2" and Exhibit "E" to the Contract. Without limitation the BCRUA Project includes the facilities, lines, intake structures, storage tanks, booster pumps and other appurtenances in the BCRUA Project, including specifically Phases 1B, 1C, and 1D, as described in Exhibit E and the Phase II Regional System Components, as described in the Preliminary Design Report and owned by the BCRUA sufficient to treat the raw water and deliver the treated water to which the Cities, respectively, are entitled under the Contract.

The term *BCRUA Project Costs* means and includes, without limitation, the following costs incurred for the BCRUA Project by or on behalf of the BCRUA or the Cities: (i) the cost of acquisition of the Land Interests, including appraisals, closing costs and title insurance policies; (ii) the cost of acquisition, construction, repair, replacement, improvement or decommissioning of the Facilities, and any structure, item of equipment, or other item, used for, or in connection with,

the BCRUA Project; (iii) the cost of site preparation of the Land Interests, including demolition or removal of structures and improvements as necessary or incident to accomplishing the BCRUA Project; (iv) the cost of engineering, legal, architectural or other related services; (v) the preparation cost of plans, specifications, studies, surveys, cost estimates, and other expenses necessary or incident to planning, providing, or financing the BCRUA Project; (vi) the cost of machinery, equipment, furnishings, and facilities necessary or incident to placing the BCRUA Project in operation; (vii) finance charges and interest before, during, and after construction as permitted by the laws of the State; (viii) costs incurred in connection with financing the BCRUA Project, including, without limitation: (1) financing, legal, accounting, financial advisory, rating agency, and auditing fees, expenses and disbursements; (2) the cost of printing, engraving, and reproduction services; and (3) the cost of a trustee's or paying agent's initial or acceptance fee and subsequent fees; (ix) all costs, fees and expenses of litigation of all kinds; (x) the cost of property casualty and public liability insurance; (xi) the fees and costs of the Purchaser as the anticipated purchasers of the Bonds; (xii) reimbursement of the costs previously incurred by the Cities with respect to the BCRUA Project; and (xiii) other costs generally recognized as part of BCRUA Project construction costs.

The term *BCRUA Representative* shall mean the General Manager of the BCRUA or in his or her absence the President of the Board of BCRUA or such other person authorized by the Board to act as a BCRUA Representative.

The term *Bond Payments* shall mean the payments defined as "Bond Payments" within the Contract that the BCRUA expects to receive from the City of Round Rock, Texas pursuant to the terms of the Contract.

The term *Bonds* shall mean and include collectively the Bonds issued and delivered pursuant to this Resolution and the Award Certificate for the Bonds and all substitute Bonds exchanged therefor, as well as all other substitute bonds and replacement bonds issued pursuant hereto, and the term *Bond* shall mean any of the Bonds.

The term *Bonds Similarly Secured* shall mean the Outstanding Series 2016 Bonds, the Outstanding Series 2017 Bonds, the Bonds issued pursuant to this Resolution and any Additional Bonds hereafter issued by the BCRUA or bonds issued to refund any of the foregoing if issued in a manner that provides that the refunding bonds are payable from and equally and ratably secured by a lien on and pledge of the Bond Payments.

The term *Business Day* shall mean any day which is not a Saturday, Sunday, legal holiday, or a day on which banking institutions in The City of New York, New York or in the city where the Designated Trust Office of the Paying Agent/Registrar is located are authorized by law or executive order to close.

The term *Certified Public Accountant* shall mean an independent certified public accountant or firm of independent certified public accountants.

The term *Closing Date* shall mean the date of physical delivery of the Bonds issued pursuant to this Resolution for the payment in full by the Purchaser.

The term *Contract* shall mean the Master Contract for the Financing, Construction and Operation of the BCRUA Regional Water Treatment and Distribution Project, dated as of September 2, 2008, as amended by a "First Amendment to the Master Contract for the Financing, Construction and Operation of the BCRUA Regional Water Treatment and Distribution Project" dated as of January 22, 2009, by a "Second Amendment to the Master Contract for the Financing, Construction and Operation of the BCRUA Regional Water Treatment and Distribution Project" dated as of October 20, 2010, by a "Third Amendment to the Master Contract for the Financing, Construction and Operation of the BCRUA Regional Water Treatment and Distribution Project" dated as of February 22, 2012, by a "Fourth Amendment to the Master Contract for the Financing, Construction and Operation of the BCRUA Regional Water Treatment and Distribution Project" dated as of April 25, 2018, by a "Fifth Amendment to the Master Contract for the Financing, Construction and Operation of the BCRUA Regional Water Treatment and Distribution Project" dated as of April 22, 2021, and by a "Sixth Amendment to the Master Contract for the Financing, Construction and Operation of the BCRUA Regional Water Treatment and Distribution Project" dated as of December 15, 2021, and together with any additional amendments and supplements thereto (which by the term of such instrument is designated as a supplement or amendment to such Contract).

The term *Credit Agreement* shall mean an insurance policy, a surety bond (including any supporting insurance agreement), a letter or line of credit or other type of enhancement issued in support of any Bonds Similarly Secured by a Credit Agreement Provider at the request of the BCRUA.

The term *Credit Agreement Provider* shall mean (i) with respect to any Credit Agreement consisting of a policy of municipal bond insurance or a surety bond, an issuer of policies of insurance insuring the timely payment of scheduled debt service on governmental obligations such as the Bonds Similarly Secured, provided that a Rating Agency having an outstanding rating on the Bonds Similarly Secured would rate the Bonds Similarly Secured upon delivery of the Bonds Similarly Secured fully insured by a standard policy issued by the issuer in its highest generic rating category for such obligations; and (ii) with respect to any Credit Agreement consisting of a letter or line of credit, any financial institution, provided that a Rating Agency having an outstanding rating on the Bonds Similarly Secured would rate the Bonds Similarly Secured in one of its two highest generic rating categories for such obligations if the letter or line of credit proposed to be issued by such financial institution secured the timely payment of the entire principal amount of the Bonds Similarly Secured and the interest thereon.

The term *Debt Service Fund* shall mean the special fund or account created and established by the provisions of Section 10(a) of this Resolution.

The term *Debt Service Requirements* shall mean as of any particular date of computation, with respect to any obligations and with respect to any period, the aggregate of the amounts to be paid or set aside by the BCRUA as of such date or in such period for the payment of the principal of, premium, if any, and interest (to the extent not capitalized) on such obligations; assuming, in the case of obligations without a fixed numerical rate, that such obligations bear interest calculated by (a) either (i) an interest rate equal to the average rate borne by such Bonds (or by comparable debt in the event that such Bonds have not been outstanding during the preceding 24 months) for any

24 month period ending within 30 days prior to the date of calculation, (ii) if the Bonds bear interest at tax-exempt rates, an interest rate equal to the 24 month average of the Index (as most recently published in The Bond Buyer), unless such index is no longer published in The Bond Buyer, in which case the index to be used in its place shall be that index which the BCRUA Representative determines most closely replicates such index as set forth in a certificate of a BCRUA Representative, (iii) if the Bonds bear interest at taxable rates, an interest rate equal to the rate of the 30 day London Interbank Offered Rate, (iv) that interest rate which, in the judgment of the BCRUA Representative, based, to the extent possible, upon an accepted market index which corresponds with the provisions of the subject Bonds, is the average rate anticipated to be in effect with respect to such Bonds or (v) that interest rate which, in the judgment of the BCRUA Representative, based upon the interest rate methodology in the applicable Credit Agreement if calculating payments under a Credit Agreement, is the average rate anticipated to be in effect; and (b) that the debt service of such bonds is amortized such that annual debt service is substantially level over the remaining stated life of such bonds, and further assuming in the case of obligations required to be redeemed or prepaid as to principal prior to Stated Maturity, the principal amounts thereof will be redeemed prior to Stated Maturity in accordance with the mandatory redemption provisions applicable thereto.

The term *Defeasance Securities* shall mean (i) Federal Securities, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the Board adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provides for the funding of an escrow to effect the defeasance of Bonds are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the Board adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provides for the funding of an escrow to effect the defeasance of Bonds, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its equivalent, and (iv) any other then authorized securities or obligations under applicable State law in existence at the time of such defeasance that may be used to defease obligations such as the Bonds. The foregoing notwithstanding, the BCRUA Representative may elect in the Award Certificate to modify this definition of "Defeasance Securities" by eliminating any securities or obligations set forth in the preceding sentence upon determining that it is in the best interests of the BCRUA to do so.

The term *Depository* shall mean an official depository bank of the BCRUA.

The term *Designated Trust Office* shall have the meaning ascribed to said term in Section 5(b) of this Resolution.

The term *DTC* shall mean The Depository Trust Company, New York, New York, or any successor securities depository.

The term *DTC Participant* shall mean securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations on whose behalf DTC was created to hold

securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

The term *Federal Securities* shall mean direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America.

The term *Financial Obligation* shall mean a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that "financial obligation" shall not include municipal securities (as defined in the Securities Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

The term *Fiscal Year* shall mean the twelve-month accounting period used by the BCRUA in connection with the operation of the BCRUA Project, currently ending on September 30th of each year, which may be any twelve consecutive month period established by the BCRUA, but in no event may the Fiscal Year be changed more than one time in any three-calendar year period.

The term *Fitch* shall mean Fitch Investors Service, L.P., its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Fitch shall be deemed to refer to any other nationally recognized securities rating agency designated by the BCRUA.

The term *Interest Payment Date* shall mean the date semiannual interest is payable on the Bonds, while any of the Bonds remain Outstanding as established in the Award Certificate.

The term *IRS Code* shall mean the Internal Revenue Code of 1986, as amended.

The term *Land Interests* shall mean the fee simple interests and/or the easements, right-of-way and other interests in real property necessary for the acquisition, construction and operation of the BCRUA Project.

The term *Maintenance and Operation Expenses* shall mean the expenses necessary to provide for the administration, efficient operation and adequate maintenance of the BCRUA's System, including the cost of purchasing water, paying necessary wages, salaries, and benefits, the acquisition of property and materials necessary to maintain the System in good condition and to operate it efficiently, together with such other costs and expenses as may now or hereafter be defined by law as proper maintenance and operation expenses of the System, including Operation and Maintenance Expenses (as defined in the Contract).

The term *Maturity* shall mean the date on which the principal of a Bond becomes due and payable as therein and herein provided, whether at Stated Maturity, by redemption or otherwise.

The term *Moody's* shall mean Moody's Investors Service, Inc., its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a

securities rating agency, Moody's shall be deemed to refer to any other nationally recognized securities rating agency designated by the BCRUA.

The term *MSRB* shall mean the Municipal Securities Rulemaking Board.

The term *Outstanding* shall mean when used in this Resolution with respect to Bonds Similarly Secured means, as of the date of determination, all Bonds Similarly Secured of any series issued and delivered pursuant to this Resolution or the resolution authorizing such Bonds Similarly Secured, as the case may be, except:

- (1) those Bonds Similarly Secured canceled by the applicable Paying Agent/Registrar or delivered to the applicable Paying Agent/Registrar for cancellation;
- (2) those Bonds Similarly Secured for which payment has been duly provided by the BCRUA in accordance with the provisions of Section 32 of this Resolution (or similar provisions of a resolution authorizing other Bonds Similarly Secured) by the irrevocable deposit with the Paying Agent/Registrar, or an authorized escrow agent, of money or Defeasance Securities, or both, in the amount necessary to fully pay the principal of, premium, if any, and interest thereon to maturity or redemption, as the case may be, provided that, if such Bonds Similarly Secured are to be redeemed, notice of redemption thereof shall have been duly given pursuant to this Resolution or irrevocably provided to be given to the satisfaction of the applicable Paying Agent/Registrar, or waived; and
- (3) those Bonds Similarly Secured that have been mutilated, destroyed, lost, or stolen and replacement Bonds Similarly Secured have been registered and delivered in lieu thereof as provided in Section 5(f) of this Resolution (or similar provisions of a resolution authorizing other Bonds Similarly Secured).

The terms *Paying Agent/Registrar*, *Paying Agent* or *Registrar* shall mean the agent selected by the BCRUA Representative to perform such function in the Award Certificate or any successor agent under the Paying Agent/Registrar Agreement

The term *Preliminary Design Report* shall mean, collectively, the following described documents:

- (i) *Treatment Plant PDR*, "Brushy Creek Regional Water Treatment Plant; Preliminary Design Report" prepared by Camp Dresser & McKee, Inc., dated July, 2008;
- (ii) *Raw Water PDR*, "Brushy Creek Regional Water Supply Project – Phase 1 Raw Water Facilities – Floating Intake and Raw Water Pipeline; Preliminary Design Report" prepared by Carter & Burgess, Inc., dated October 2007;
- (iii) *Treated Transmission Main, Segment 1 PDR*, "Brushy Creek Regional Utility Authority 78 inch Water Transmission Main Preliminary Engineering Report" prepared by Lockwood, Andrews & Newman, Inc., dated May 24, 2007; and

(iv) *Treated Transmission Main, Segment 2C PDR*, "Preliminary Engineering Report – Treated Water Transmission Line Segment 2C" prepared by K. Friese & Associates, Inc., dated September 2007.

The term *Purchaser* shall mean the Texas Water Development Board.

The term *Rating Agencies* shall mean S&P, Moody's and/or Fitch according to which of such rating agencies then rates the Bonds Similarly Secured of the applicable series; and provided that if no such rating agency then rates any series of Bonds Similarly Secured of such series, the term "Rating Agency" shall refer to any national rating agency (if any) which provides such rating.

The term *Record Date* shall mean, with respect to the Bonds, the Business Day of each month as set forth in the Award Certificate.

The term *Registration Books* shall mean the books or records relating to the registration, payment and transfer or exchange of the Bonds maintained by the Paying Agent/Registrar pursuant to Section 5 of this Resolution.

The term *Registered Owner* shall mean the entity or person in whose names any of the Bonds are registered in the Registration Books.

The term *Resolution* shall mean this resolution adopted by the Board on October 25, 2023.

The term *Round Rock* means the City of Round Rock, Texas, a home-rule municipality.

The term *Round Rock System* shall mean the combined water and wastewater system of Round Rock together with all future extensions, improvements, enlargements, and additions thereto, including, to the extent permitted by law, storm sewer and drainage and/or reclaimed water systems which are integrated with the waterworks or wastewater disposal system, and all replacements thereof, provided that, notwithstanding the foregoing, and to the extent now or hereafter authorized or permitted by law, the term Round Rock System shall not include any waterworks or wastewater facilities which are declared by Round Rock not to be a part of the Round Rock System and which are hereafter acquired or constructed by Round Rock with the proceeds from the issuance of "Special Facilities Bonds," which are not secured by or payable from the net revenues of the Round Rock System, but which are secured by and are payable solely from special contract revenues, or payments received from Round Rock or any other legal entity, or any combination thereof, in connection with such facilities; and such revenues or payments shall not be considered as or constitute gross revenues of the Round Rock System, unless and to the extent otherwise provided in the ordinance or ordinances authorizing the issuance of such "Special Facilities Bonds."

The term *Round Rock Utility Bonds* shall mean the bonds, notes or other obligations issued by Round Rock secured by a lien on and pledge of the net revenues of the Round Rock System or any part thereof regardless of lien priority including such bonds, notes or other obligations now or hereafter outstanding.

The term *Rule* shall mean SEC Rule 15c2-12, as amended from time to time.



The term *S&P* shall mean S&P Global Ratings, its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, *S&P* shall be deemed to refer to any other nationally recognized securities rating agency designated by the BCRUA.

The term *SEC* shall mean the United States Securities and Exchange Commission.

The term *Series 2016 Bonds* shall mean the "Brushy Creek Regional Utility Authority, Inc. City of Round Rock, Texas Contract Revenue Refunding Bonds (Brushy Creek Regional Water Treatment and Distribution Project), Series 2016."

The term *Series 2017 Bonds* shall mean the "Brushy Creek Regional Utility Authority, Inc. City of Round Rock, Texas Contract Revenue Bonds (Brushy Creek Regional Water Treatment and Distribution Project), Series 2017."

The term *Special Project Bonds* shall mean obligations which the BCRUA expressly reserves the right to issue in Section 15 of this Resolution.

The term *State* shall mean the State of Texas.

The term *Stated Maturity* shall mean, when used with respect to the Bonds, the scheduled maturity or mandatory sinking fund redemption date of a series of the Bonds.

**EXHIBIT B**

**FORM OF AWARD CERTIFICATE**

**EXHIBIT C**

**FORM OF BOND**

(All blanks and any appropriate or necessary insertions or deletions, to be completed as determined by the BCRUA Representative in the Award Certificate.)

**REGISTERED  
NO. \_\_\_\_\_**

**REGISTERED  
AMOUNT  
\$ \_\_\_\_\_**

**UNITED STATES OF AMERICA  
STATE OF TEXAS  
BRUSHY CREEK REGIONAL UTILITY AUTHORITY, INC.  
CITY OF ROUND ROCK, TEXAS CONTRACT REVENUE BOND  
(BRUSHY CREEK REGIONAL WATER TREATMENT AND DISTRIBUTION  
PROJECT), SERIES 2023**

**ISSUANCE DATE:    STATED MATURITY    INTEREST RATE:    CUSIP No.:**

**REGISTERED OWNER:** \_\_\_\_\_

**PRINCIPAL AMOUNT:** \_\_\_\_\_ **DOLLARS**

The Brushy Creek Regional Utility Authority, Inc. (the "BCRUA"), a non-profit corporation of the State of Texas, with its principal office in Round Rock, Texas, for value received, hereby promises to pay to the order of the Registered Owner specified above, or the registered assigns thereof, on the Stated Maturity date specified above, the Principal Amount specified above (or so much thereof as shall not have been paid upon prior redemption), and to pay interest on the unpaid principal amount hereof from the Issuance Date, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, to the earlier of redemption or Stated Maturity, at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on \_\_\_\_\_\* and \_\_\_\_\_\* of each year commencing \_\_\_\_\_\*.

Principal and premium, if any, of this Bond shall be payable to the Registered Owner hereof (the "Holder") upon presentation and surrender, at a corporate trust office of the Paying Agent/Registrar executing the registration certificate appearing hereon or a successor thereof. Interest shall be payable to the Holder of this Bond (or one or more Predecessor Bonds, as defined in the Resolution

\_\_\_\_\_  
\* As provided in the Award Certificate. To the extent that the Award Certificate relating to the Bonds is inconsistent with any provisions in this Form of Bond or contains information to complete missing information in this Form of Bond, the language in the Award Certificate shall be used in the executed Bonds.

hereinafter referenced) whose name appears on the Security Register maintained by the Paying Agent/Registrar at the close of business on the Record Date, which is the \_\_\_\_\_\* day of the month next preceding each Interest Payment Date. All payments of principal of and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. In addition, interest may be paid by such other method, acceptable to the Texas Water Development Board, or such other Registered Owner, requested by, and at the risk and expense, of the Registered Owner; provided, however, that if this Bond is owned by the Texas Water Development Board, interest will be paid by wire transfer or other method acceptable to the Texas Water Development Board, and there will be no charge.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$\_\_\_\_\_ (the "Bonds") pursuant to a resolution adopted by the governing body of the BCRUA (the "Resolution"), to pay (i) ROUND ROCK'S SHARE OF THE COSTS OF DESIGNING, CONSTRUCTING, ACQUIRING, IMPROVING AND/OR EXPANDING THE BCRUA PROJECT INCLUDING BUT NOT LIMITED TO CONSTRUCTION OF THE PHASE 1D WATER TREATMENT PLANT EXPANSION, THE PHASE 2 RAW WATER DELIVERY SYSTEM AND ELECTRICAL UTILITY IMPROVEMENTS FOR THE PHASE 2 RAW WATER PUMP AND (ii) THE COSTS OF ISSUANCE OF THE BONDS.

The Bonds stated to mature on and after \_\_\_\_\_\* may be redeemed prior to their Stated Maturities, at the option of the BCRUA, on \_\_\_\_\_\*, or on any date thereafter, in whole or in part, and, if in part, the BCRUA shall select and designate the maturity or maturities in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar) at the redemption price of par, together with accrued interest to the date of redemption, and upon thirty (30) days prior written notice being given by United States mail, first-class postage prepaid, to Holders of the Bonds to be redeemed, and subject to the terms and provisions relating thereto contained in the Resolution. If this Bond is subject to redemption prior to Stated Maturity and is in a denomination in excess of \$5,000, portions of the principal sum hereof in installments of \$5,000 or any integral multiple thereof may be redeemed, and, if less than all of the principal sum hereof is to be redeemed, there shall be issued, without charge therefor, to the Holder hereof, upon the surrender of this Bond to the Paying Agent/Registrar at its corporate trust office, a new Bond or Bonds of like Stated Maturity and interest rate in any authorized denominations provided in the Resolution for the then unredeemed balance of the principal sum hereof.

If this Bond (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date this Bond (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and, if money for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption is held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable hereon from and after the redemption date on the

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\* As provided in the Award Certificate. To the extent that the Award Certificate relating to the Bonds is inconsistent with any provisions in this Form of Bond or contains information to complete missing information in this Form of Bond, the language in the Award Certificate shall be used in the executed Bonds.

principal amount hereof to be redeemed. If this Bond is called for redemption, in whole or in part, the BCRUA or the Paying Agent/Registrar shall not be required to issue, transfer, or exchange this Bond within forty-five (45) days of the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance hereof in the event of its redemption in part.

The Bonds of this series are special obligations of the BCRUA payable from and equally and ratably secured solely by a lien on and pledge of the Bond Payments received by the BCRUA from the City of Round Rock, Texas pursuant to the provisions of the Contract. In the Resolution, the BCRUA reserves and retains the right to issue Additional Bonds, without limitation as to principal amount but subject to any terms, conditions, or restrictions set forth in the Resolution or as may be applicable thereto under law or otherwise. The Bonds do not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the BCRUA or BCRUA Project, except with respect to the Bond Payments. The Bonds are not obligations of the State of Texas.

The Holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

Reference is hereby made to the Resolution, copies of which are on file in the corporate trust office of the Paying Agent/Registrar, and to all of the provisions of which the Holder by his acceptance hereof hereby assents, for definitions of terms; the description and nature of the Special Payments pledged for the payment of the Bonds; the terms and conditions under which the BCRUA may issue Additional Bonds; the terms and conditions relating to the transfer or exchange of the Bonds; the conditions upon which the Resolution may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the BCRUA and the Paying Agent/Registrar; the terms and provisions upon which this Bond may be redeemed or discharged at or prior to the Stated Maturity thereof, and deemed to be no longer Outstanding thereunder; and for the other terms and provisions specified in the Resolution. Capitalized terms used herein have the same meanings assigned in the Resolution.

This Bond, subject to certain limitations contained in the Resolution, may be transferred on the Registration Books upon presentation and surrender at a corporate trust office of the Paying Agent/Registrar, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by the Holder hereof, or his duly authorized agent, and thereupon one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued to the designated transferee or transferees.

The BCRUA and the Paying Agent/Registrar, and any agent of either, shall treat the Holder hereof whose name appears on the Security Register (i) on the Record Date as the owner hereof for purposes of receiving payment of interest hereon, (ii) on the date of surrender of this Bond as the owner hereof for purposes of receiving payment of principal hereof at its Stated Maturity, or its redemption, in whole or in part, and (iii) on any other date as the owner hereof for all other purposes, and neither the BCRUA nor the Paying Agent/Registrar, or any such agent of either, shall be affected by notice to the contrary. In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a

"Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the BCRUA. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date" - which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, covenanted, and represented that all acts, conditions, and things required to be performed, exist, and be done precedent to the issuance of this Bond in order to render the same a legal, valid, and binding special obligation of the BCRUA have been performed, exist, and have been done, in regular and due time, form, and manner, as required by law, and that issuance of the Bonds does not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Bonds by a lien on and pledge of the Bond Payments and as otherwise provided in this Resolution. In case any provision in this Bond or any application thereof shall be deemed invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Resolution shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the Board of the BCRUA has caused this Bond to be duly executed with the manual or facsimile signature of the President of the Board and countersigned with the manual or facsimile signature of the Secretary of the Board and has caused the official seal of the BCRUA to be duly impressed, or placed in facsimile, on this Bond.

BRUSHY CREEK REGIONAL  
UTILITY AUTHORITY, INC.

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President, Board of Directors

ATTESTED:

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Secretary, Board of Directors

(SEAL)

C. Form of Registration Certificate of Comptroller of Public Accounts to Appear on Initial Bond Only.

REGISTRATION CERTIFICATE OF  
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER OF  
PUBLIC ACCOUNTS  
THE STATE OF TEXAS

§§  
§§

REGISTER NO. \_\_\_\_\_

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

(SEAL)

D. Form of Certificate of Paying Agent/Registrar to Appear on Definitive Bonds Only.

This Bond has been duly issued under the provisions of the within-mentioned Resolution; the Bond or Bonds of the above-entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

Registered this date: \_\_\_\_\_

\_\_\_\_\_  
as Paying Agent/Registrar

By: \_\_\_\_\_  
Authorized Signature

E. Form of Assignment.

**ASSIGNMENT**

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto  
(Print or typewrite name, address, and zip code of transferee): \_\_\_\_\_

\_\_\_\_\_  
(Social Security or other identifying number): \_\_\_\_\_

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED: \_\_\_\_\_

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular.

Signature guaranteed: \_\_\_\_\_

F. The Initial Bond of each series shall be in the form set forth in paragraph B of this Section, except that the form of a single fully registered Initial Bond shall be modified as follows:

- i) immediately under the name of the Bond(s) the headings "Interest Rate" and "Stated Maturity" shall both be completed "as shown below" and "CUSIP No." shall be deleted;
- ii) the first two paragraphs shall read as follows:

The Brushy Creek Regional Utility Authority, Inc. (the "BCRUA"), a non-profit corporation of the State of Texas, with its principal office located in Round Rock, Texas, for value received, hereby promises to pay to the order of the Registered Owner named above, or the registered assigns thereof, the Principal Amount specified above on the \_\_\_\_\_\* day of \_\_\_\_\_\* in each of the years and in principal installments and bearing interest at per annum rates in accordance with the following schedule:

Principal <u>Amount</u>	Maturity (_____)	Interest <u>Rate</u>
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(Information to be inserted from Award Certificate).

(or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid Principal Amount hereof from the \_\_\_\_\_\*, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, to Stated Maturity or prior redemption, at the per annum rates of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on \_\_\_\_\_\* and \_\_\_\_\_\*, commencing \_\_\_\_\_\* (the "Interest Payment Date").

\_\_\_\_\_  
\* As provided in the Award Certificate. To the extent that the Award Certificate relating to the Bonds is inconsistent with any provisions in this Form of Bond or contains information to complete missing information in this Form of Bond, the language in the Award Certificate shall be used in the executed Bonds.



Principal and premium, if any, of this Bond shall be payable to the Registered Owner hereof (the Holder), upon its presentation and surrender, at a corporate trust office of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ (the "Paying Agent/Registrar"). Interest shall be payable to the Holder of this Bond whose name appears on the Security Register maintained by the Paying Agent/Registrar at the close of business on the Record Date, which is the fifteenth day of the month next preceding each Interest Payment Date. All payments of principal of and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest shall be paid by the Paying Agent/Registrar by check sent on or prior to the appropriate date of payment by United States mail, first-class postage prepaid, to the Holder hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder hereof.

iii) the Initial Bond shall be numbered "T-1."

G. Insurance Legend. If an insurance policy is obtained by the Purchaser or the BCRUA for any Bonds, the definitive Bonds and the Initial Bond shall bear an appropriate legend as provided by the Insurer.

**EXHIBIT D**  
**PAYING AGENT/REGISTRAR AGREEMENT**

## **PAYING AGENT/REGISTRAR AGREEMENT**

**THIS AGREEMENT** entered into as of November 15, 2023 (this “Agreement”), by and between the Brushy Creek Regional Utility Authority, Inc. (the “Issuer”), a non-profit corporation created by and acting on behalf of the Cities of Cedar Park, Texas, Leander, Texas and Round Rock, Texas, and The Bank of New York Mellon Trust Company, N.A., a banking corporation duly organized and existing under the laws of the United States of America (the “Bank”).

### **RECITALS**

**WHEREAS**, the Issuer has duly authorized and provided for the issuance of its \$41,750,000 Brushy Creek Regional Utility Authority, Inc. City of Round Rock, Texas Contract Revenue Bonds (Brushy Creek Regional Water Treatment and Distribution Project), Series 2023 (the “Securities”), such Securities to be issued in fully registered form only as to the payment of principal and interest thereon; and

**WHEREAS**, the Securities are scheduled to be delivered to the initial purchasers thereof on or about November 15, 2023; and

**WHEREAS**, the Issuer has selected the Bank to serve as Paying Agent/Registrar in connection with the payment of the principal of, premium, if any, and interest on the Securities and with respect to the registration, transfer and exchange thereof by the registered owners thereof; and

**WHEREAS**, the Bank has agreed to serve in such capacities for and on behalf of the Issuer and has full power and authority to perform and serve as Paying Agent/Registrar for the Securities;

**NOW, THEREFORE**, it is mutually agreed as follows:

### **ARTICLE ONE APPOINTMENT OF BANK AS PAYING AGENT AND REGISTRAR**

#### **Section 1.01. Appointment.**

The Issuer hereby appoints the Bank to serve as Paying Agent with respect to the Securities. As Paying Agent for the Securities, the Bank shall be responsible for paying on behalf of the Issuer the principal, premium (if any), and interest on the Securities as the same become due and payable to the registered owners thereof, all in accordance with this Agreement and the “Resolution” (hereinafter defined).

The Issuer hereby appoints the Bank as Registrar with respect to the Securities. As Registrar for the Securities, the Bank shall keep and maintain for and on behalf of the Issuer books and records as to the ownership of the Securities and with respect to the transfer and exchange thereof as provided herein and in the “Resolution.”

The Bank hereby accepts its appointment, and agrees to serve as the Paying Agent and Registrar for the Securities.

**Section 1.02. Compensation.**

As compensation for the Bank's services as Paying Agent/Registrar, the Issuer hereby agrees to pay the Bank the fees and amounts set forth in Schedule A attached hereto for the first year of this Agreement and thereafter the fees and amounts set forth in the Bank's current fee schedule then in effect for services as Paying Agent/Registrar for political subdivisions, which shall be supplied to the Issuer on or before 90 days prior to the close of the Fiscal Year of the Issuer, and shall be effective upon the first day of the following Fiscal Year.

In addition, the Issuer agrees to reimburse the Bank upon its request for all reasonable expenses, disbursements and advances incurred or made by the Bank in accordance with any of the provisions hereof (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

**ARTICLE TWO  
DEFINITIONS**

**Section 2.01. Definitions.**

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

"Bank Office" means the designated office for payment of the Bank as indicated on the signature page hereof. The Bank will notify the Issuer in writing of any change in location of the Bank Office.

"Financial Advisor" is Specialized Public Finance Inc.

"Fiscal Year" means the fiscal year of the Issuer, ending September 30.

"Holder" and "Security Holder" each means the Person in whose name a Security is registered in the Security Register.

"Issuer Request" and "Issuer Order" means a written request or order signed in the name of the Issuer by an authorized representative, delivered to the Bank.

"Legal Holiday" means a day on which the Bank is required or authorized to be closed.

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government.

“Predecessor Securities” of any particular Security means every previous Security evidencing all or a portion of the same obligation as that evidenced by such particular Security (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Security for which a replacement Security has been registered and delivered in lieu thereof pursuant to Section 4.06 hereof and the Resolution).

“Redemption Date” when used with respect to any Bond to be redeemed means the date fixed for such redemption pursuant to the terms of the Resolution.

“Resolution” means the Resolutions of the governing body of the Issuer pursuant to which the Securities are issued, certified by the Secretary of the Board or any other officer of the Issuer and delivered to the Bank.

“Responsible Officer” when used with respect to the Bank means any managing director, vice president, senior associate, associate, or any other officer of the Bank customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

“Security Register” means a register maintained by the Bank on behalf of the Issuer providing for the registration and transfer of the Securities.

“Stated Maturity” means the date specified in the Resolution on which the principal of a Security is scheduled to be due and payable.

## **Section 2.02. Other Definitions.**

The terms “Bank,” “Issuer,” and “Securities (Security)” have the meanings assigned to them in the recital paragraphs of this Agreement.

The term “Paying Agent/Registrar” refers to the Bank in the performance of the duties and functions of this Agreement.

## **ARTICLE THREE PAYING AGENT**

### **Section 3.01. Duties of Paying Agent.**

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer no later than 10:00 a.m. Central Time on the applicable payment date, pay on behalf of the Issuer the principal of each Security at its Stated Maturity or Redemption Date, to the Holder upon surrender of the Security to the Bank at the Bank Office.

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer no later than 10:00 a.m. Central Time on the applicable payment date, the interest on each Security when due, by

computing the amount of interest to be paid each Holder and preparing and sending checks by United States Mail, first-class postage prepaid, on each payment date, to the Holders of the Securities (or their Predecessor Securities) on the respective "Record Date (as defined in the Resolution)", to the address appearing on the Security Register or by such other method, acceptable to the Bank, requested in writing by the Holder at the Holder's risk and expense.

**Section 3.02. Payment Dates.**

The Issuer hereby instructs the Bank to pay the principal of and interest on the Securities on the dates specified in the Resolution.

**Section 3.03. Reporting Requirements.**

To the extent required by the Internal Revenue Code of 1986, as amended, or the Treasury Regulations, the Bank shall report to or cause to be reported to the Holders and the Internal Revenue Service the amount of interest paid or the amount treated as interest accrued on the Securities which is required to be reported by the Holders on their returns of federal income tax.

**ARTICLE FOUR  
REGISTRAR**

**Section 4.01. Security Register - Transfers and Exchanges.**

The Bank agrees to keep and maintain for and on behalf of the Issuer at the Bank Office books and records (herein sometimes referred to as the "Security Register"), and, if the Bank Office is located outside the State of Texas, a copy of such books and records shall be kept in the State of Texas, for recording the names and addresses of the Holders of the Securities, the transfer, exchange and replacement of the Securities and the payment of the principal of and interest on the Securities to the Holders and containing such other information as may be reasonably required by the Issuer and subject to such reasonable regulations as the Issuer and the Bank may prescribe. The Bank also agrees to keep a copy of the Security Register within the State of Texas. All transfers, exchanges and replacement of Securities shall be noted in the Security Register.

Every Security surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an officer of a federal or state bank or a member of the National Association of Securities Dealers, in form satisfactory to the Bank, duly executed by the Holder thereof or his agent duly authorized in writing.

The Bank may request any supporting documentation it feels necessary to effect a re-registration, transfer or exchange of the Securities.

To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Securities, the exchange or transfer by the Holders thereof will be completed and new Securities delivered to the Holder or the assignee of the Holder in not more than three (3) business days after the receipt of the Securities to be cancelled in an exchange or

transfer and the written instrument of transfer or request for exchange duly executed by the Holder, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

#### **Section 4.02. Certificates.**

The Issuer shall provide an adequate inventory of printed Securities certificates to facilitate transfers or exchanges thereof. The Bank covenants that the inventory of printed Securities certificates will be kept in safekeeping pending their use, and reasonable care will be exercised by the Bank in maintaining such Securities certificates in safekeeping, which shall be not less than the level of care maintained by the Bank for debt securities of other political subdivisions or corporations for which it serves as registrar, or that it maintains for its own securities.

#### **Section 4.03. Form of Security Register.**

The Bank, as Registrar, will maintain the Security Register relating to the registration, payment, transfer and exchange of the Securities in accordance with the Bank's general practices and procedures in effect from time to time. The Bank shall not be obligated to maintain such Security Register in any form other than those which the Bank has currently available and currently utilizes at the time.

The Security Register may be maintained in written form or in any other form capable of being converted into written form within a reasonable time.

#### **Section 4.04. List of Security Holders.**

The Bank will provide the Issuer at any time requested by the Issuer, upon payment of the required fee, a copy of the information contained in the Security Register. The Issuer may also inspect the information contained in the Security Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing or to convert the information into written form.

The Bank will not release or disclose the contents of the Security Register to any person other than to, or at the written request of, an authorized officer or employee of the Issuer, except upon receipt of a court order or as otherwise required by law. Upon receipt of a court order or other notice of a legal proceeding and prior to the release or disclosure of any of the contents of the Security Register, the Bank will notify the Issuer so that the Issuer may contest the same or such release or disclosure of the contents of the Security Register.

#### **Section 4.05. Return of Cancelled Certificates.**

The Bank will, at such reasonable intervals as it determines, surrender to the Issuer, Securities in lieu of which or in exchange for which other Securities have been issued, or which have been paid.

#### **Section 4.06. Mutilated, Destroyed, Lost or Stolen Securities.**

The Issuer hereby instructs the Bank, subject to the applicable provisions of the Resolution, to deliver and issue Securities certificates in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities certificates as long as the same does not result in an overissuance.

In case any Security shall be mutilated, or destroyed, lost or stolen, the Bank, in its discretion, may execute and deliver a replacement Security of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Security, or in lieu of and in substitution for such destroyed lost or stolen Security, only after (i) the filing by the Holder thereof with the Bank of evidence satisfactory to the Bank of the destruction, loss or theft of such Security, and of the authenticity of the ownership thereof and (ii) the furnishing to the Bank of indemnification in an amount satisfactory to hold the Issuer and the Bank harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Security shall be borne by the Holder of the Security mutilated, or destroyed, lost or stolen.

#### **Section 4.07. Transaction Information to Issuer.**

The Bank will, within a reasonable time after receipt of written request from the Issuer, furnish the Issuer information as to the Securities certificates it has paid pursuant to Section 3.01, Securities certificates it has delivered upon the transfer or exchange of any Securities certificates pursuant to Section 4.01, and Securities certificates it has delivered in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities certificates pursuant to Section 4.06.

### **ARTICLE FIVE THE BANK**

#### **Section 5.01. Duties of Bank.**

The Bank undertakes to perform the duties set forth herein and agrees to use reasonable care in the performance thereof.

The Bank is authorized to transfer funds relating to the closing and initial delivery of the Securities in the manner disclosed in the closing memorandum as prepared by the Issuer's Financial Advisor or other agent. The Bank may act on a facsimile or e-mail transmission of the closing memorandum acknowledged by the Issuer, the Issuer's Financial Advisor or other agent as the final closing memorandum. The Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Bank's reliance upon and compliance with such instructions.

#### **Section 5.02. Reliance on Documents, Etc.**

(a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions furnished to the Bank by the Issuer.



(b) The Bank shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proven that the Bank was negligent in ascertaining the pertinent facts.

(c) No provisions of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

(d) The Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. Without limiting the generality of the foregoing statement, the Bank need not examine the ownership of any Securities, but is protected in acting upon receipt of Securities certificates containing an endorsement or instruction of transfer or power of transfer which appears on its face to be signed by the Holder or an agent of the Holder. The Bank shall not be bound to make any investigation into the facts or matters stated in a resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security, or other paper or document supplied by the Issuer.

(e) The Bank may consult with legal counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered, or omitted by it hereunder in good faith and in reliance thereon, provided that any such written advice or opinion is supplied to the Issuer by the Bank.

(f) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys of the Bank.

#### **Section 5.03. Recitals of Issuer.**

The recitals contained herein with respect to the Issuer and in the Securities shall be taken as the statements of the Issuer, and the Bank assumes no responsibility for their correctness.

The Bank shall in no event be liable to the Issuer, any Holder or Holders of any Security, or any other Person for any amount due on any Security from its own funds.

#### **Section 5.04. May Hold Securities.**

The Bank, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with the Issuer with the same rights it would have if it were not the Paying Agent/Registrar, or any other agent.

#### **Section 5.05. Moneys Held by Bank.**

The Bank shall deposit any moneys received from the Issuer into a segregated account to be held by the Bank solely for the benefit of the owners of the Securities to be used solely for the payment of the Securities, with such moneys in the account that exceed the deposit insurance available to the Issuer by the Federal Deposit Insurance Corporation, to be fully collateralized with securities or obligations that are eligible under the laws of the State of Texas to secure and be pledged as collateral for such accounts until the principal and interest on such securities have been presented for payment and paid to the owner thereof. Payments made from such account shall be made by check drawn on such account unless the owner of such Securities shall, at its own expense and risk, request such other medium of payment.

Subject to the Unclaimed Property Law of the State of Texas, any money deposited with the Bank for the payment of the principal, premium (if any), or interest on any Security and remaining unclaimed for three years after the final maturity of the Security has become due and payable will be paid by the Bank to the Issuer if the Issuer so elects, and the Holder of such Security shall hereafter look only to the Issuer for payment thereof, and all liability of the Bank with respect to such monies shall thereupon cease. If the Issuer does not elect, the Bank is directed to report and dispose of the funds in compliance with Title Six of the Texas Property Code, as amended.

#### **Section 5.06. Indemnification.**

To the extent permitted by law, the Issuer agrees to indemnify the Bank for, and hold it harmless against, any loss, liability, or expense incurred without negligence or bad faith on the Bank's part, arising out of or in connection with the Bank's acceptance or administration of its duties hereunder, including the cost and expense incurred by the Bank in defending against any claim or from liability imposed on the Bank in connection with the Bank's exercise or performance of any of its powers or duties under this Agreement.

#### **Section 5.07. Interpleader.**

The Issuer and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in either a Federal or State District Court located in the Travis County, Texas, and agree that service of process by certified or registered mail, return receipt requested, to the address referred to in Section 6.03 of this Agreement shall constitute adequate service. The Issuer and the Bank further agree that the Bank has the right to file a Bill of Interpleader in any court of competent jurisdiction in Travis County, Texas to determine the rights of any Person claiming any interest herein.

#### **Section 5.08. Depository Trust Company Services.**

It is hereby represented and warranted that, in the event the Securities are otherwise qualified and accepted for "Depository Trust Company" services or equivalent depository trust services by other organizations, the Bank has the capability and, to the extent within its control, will comply with the "Operational Arrangements," effective August 1, 1987, which establishes requirements for securities to be eligible for such type depository trust services, including, but not

limited to, requirements for the timeliness of payments and funds availability, transfer turnaround time, and notification of redemptions and calls.

## **ARTICLE SIX MISCELLANEOUS PROVISIONS**

### **Section 6.01. Amendment.**

This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

### **Section 6.02. Assignment.**

This Agreement may not be assigned by either party without the prior written consent of the other.

### **Section 6.03. Notices.**

Any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted hereby to be given or furnished to the Issuer or the Bank shall be mailed or delivered to the Issuer or the Bank, respectively, at the addresses shown on the signature page of this Agreement.

### **Section 6.04. Effect of Headings.**

The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

### **Section 6.05. Successors and Assigns.**

All covenants and agreements herein by the Issuer and the Bank shall bind their respective successors and assigns, whether so expressed or not. The provisions of Section 1.02 and of Article Five shall survive and remain in full force and effect following the termination of the Agreement.

### **Section 6.06. Severability.**

In case any provision herein shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

### **Section 6.07. Benefits of Agreement.**

Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim hereunder.

#### **Section 6.08. Entire Agreement.**

This Agreement and the Resolution constitute the entire agreement between the parties hereto relative to the Bank acting as Paying Agent/Registrar and if any conflict exists between this Agreement and the Resolution, the Resolution shall govern.

#### **Section 6.09. Counterparts.**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

#### **Section 6.10. Termination.**

This Agreement will terminate on the date of final payment by the Bank of the principal of and interest on the Securities to the Holders thereof.

This Agreement may be earlier terminated upon 30 days written notice by either party; provided, however, that this Agreement may not be terminated (i) by the Bank until a successor Paying Agent/Registrar that is a national or state banking institution and a corporation or association organized and existing under the laws of the United States of America or of any state which possesses trust powers and is subject to supervision or examination by a federal or state regulatory agency has been appointed by the Issuer and has accepted such appointment, or (ii) at any time during which such termination might, in the judgment of the Issuer, disrupt, delay, or otherwise adversely affect the payment of the principal, premium, if any, or interest on the Securities. Prior to terminating this Agreement, the Issuer may reasonably require the Bank to show that such termination will not occur during a period described in (ii) above.

The resigning Paying Agent/Registrar may petition any court of competent jurisdiction for the appointment of a successor Paying Agent/Registrar if an instrument of acceptance by a successor Paying Agent/Registrar has not been delivered to the resigning Paying Agent/Registrar within 30 days after the giving of such notice of resignation.

Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Security Register (or a copy thereof), together with other pertinent books and records relating to the Securities, to the successor Paying Agent/Registrar designated and appointed by the Issuer. The Bank agrees that no termination fee or other charge not specifically provided for in this Agreement will be due or payable by the Issuer in connection with any early termination of this Agreement.

#### **Section 6.11. Governing Law.**

This Agreement shall be construed in accordance with and governed by the laws of the State of Texas.

**Section 6.12. Certifications regarding Texas Government Code.**

(a) This Agreement has a value of less than \$100,000 for purposes of Sections 2271.002 and 2274.002, Texas Government Code.

(b) The Bank represents that, neither the Bank, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/publications/divestment.php>. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Bank and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of the same, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Bank understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Bank and exists to make a profit.

**Section 6.13. Interested Parties Form Exemption.**

The Bank represents and warrants that it is "a wholly owned subsidiary of The Bank of New York Mellon Corporation, a publicly traded business entity, and therefore this Agreement is exempt from Section 2252.908, Texas Government Code, as amended".

*[The remainder of this page is intentionally left blank.]*

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first above written.

**THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A.**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Mailing Address: The Bank of New York Mellon  
Trust Company, N.A.  
2001 Bryan Street  
Dallas, Texas 75201

[Bank Sig Pg]

**BRUSHY CREEK REGIONAL  
UTILITY AUTHORITY, INC.**

By: \_\_\_\_\_  
Title: BCRUA Representative

Address:  
221 East Main Street  
Round Rock, Texas 78664

[Issuer Sig Pg]

**SCHEDULE A**

**Paying Agent/Registrar Fee Schedule**



**EXHIBIT E**

**ESCROW AGREEMENT**

## **ESCROW AGREEMENT**

THIS ESCROW AGREEMENT (Agreement), made by and between Brushy Creek Regional Utility Authority, a political subdivision of the State of Texas in Travis and Williamson Counties, Texas, (Authority), acting by and through its General Manager, and The Bank of New York Mellon Trust Company, N.A., as escrow agent (Escrow Agent) together with any successor in such capacity;

### **W I T N E S S E T H:**

WHEREAS, pursuant to a Resolution finally adopted on October 25, 2023 (Resolution), the Brushy Creek Regional Utility Authority authorized the issuance of \$41,750,000 Brushy Creek Regional Utility Authority, Inc. City of Round Rock, Texas Contract Revenue Bonds (Brushy Creek Regional Water Treatment and Distribution Project), Series 2023, dated November 15, 2023 (Obligations) to obtain financial assistance from the Texas Water Development Board (TWDB) for the purpose of funding water or wastewater system improvements (Project); and

WHEREAS, the Escrow Agent is a state or national bank designated by the Texas Comptroller as a state depository institution in accordance with Texas Government Code, Chapter 404, Subchapter C, or is a designated custodian of collateral in accordance with Texas Government Code, Chapter 404, Subchapter D and is otherwise qualified and empowered to enter into this Agreement, and hereby acknowledges its acceptance of the terms and provisions hereof; and

WHEREAS, a condition of the Obligations is the deposit of the proceeds of the Obligations (Proceeds) in escrow subject to being withdrawn only with the approval of the Executive Administrator of the TWDB (Executive Administrator) or his/her designated representative; provided, however, the Proceeds can be transferred to different investments so long as all parties hereto consent to such transfer;

NOW, THEREFORE, in consideration of the mutual agreements herein contained and in consideration of the amount of fees to be paid by the Authority to the Escrow Agent, as set forth on **EXHIBIT A**, the receipt of which is hereby acknowledged, and in order to secure the delivery of the Obligations, the parties hereto mutually undertake, promise and agree for themselves, their respective representatives and successors, as follows:

**SECTION 1: ESCROW ACCOUNT.** Upon the delivery of the Obligations described above, the Proceeds identified under TWDB Commitment Number(s) LM231681 shall be deposited to the credit of a special escrow account (Escrow Account) maintained at the Escrow Agent on behalf of the Authority and the TWDB and shall not be commingled with any other accounts or with any other proceeds or funds. The Proceeds received by the Escrow Agent under this Agreement shall not be considered as a banking deposit by the Authority, and the Escrow Agent shall have no right to title with respect thereto except as Escrow Agent under the terms of this Agreement.

The Escrow Account shall be entitled “Brushy Creek Regional Utility Authority, City of Round Rock Contract Revenue Bonds, Texas Water Development Board LM231681 Escrow Account” and shall not be subject to warrants, drafts, or checks drawn by the Authority but shall be

disbursed or withdrawn to pay the costs of the Project for which the Obligations were issued or other purposes in accordance with the Resolution and solely upon written authorization from the Executive Administrator or his/her designated representative. The Escrow Agent shall provide to the Authority and to the TWDB the Escrow Account bank statements upon request.

**SECTION 2: COLLATERAL.** All cash deposited to the credit of such Escrow Account and any accrued interest in excess of the amounts insured by the FDIC and remaining uninvested under the terms of this Agreement shall be continuously secured by a valid pledge of direct obligations of the United States of America or other collateral meeting the requirements of the Public Funds Collateral Act, Texas Government Code, Chapter 2257.

**SECTION 3: INVESTMENTS.** While the Proceeds are held in escrow, the Escrow Agent shall only invest escrowed Proceeds in investments that are authorized by the Public Funds Investment Act, Texas Government Code, Chapter 2256 (PFIA). It is the Authority's responsibility to direct the Escrow Agent to invest all public funds in a manner that is consistent not only with the PFIA but also with its own written investment policy.

**SECTION 4: DISBURSEMENTS.** The Escrow Agent shall not honor any disbursement from the Escrow Account, or any portion thereof, unless and until it has been supplied with written approval and consent by the Executive Administrator or his/her designated representative. However, no written approval and consent by the Executive Administrator shall be required if the disbursement involves transferring Proceeds from one investment to another within the Escrow Account provided that all such investments are consistent with the PFIA requirements.

**SECTION 5: UNEXPENDED FUNDS.** Any Proceeds remaining unexpended in the Escrow Account after completion of the Project and after the final accounting has been submitted to and approved by the TWDB shall be disposed of pursuant to the provisions of the Resolution. The Authority shall deliver a copy of such TWDB approval of the final accounting to the Escrow Agent together with instructions concerning the disbursement of unexpended Proceeds hereunder. The Escrow Agent shall have no obligation to ensure that such unexpended Proceeds are used as required by the provisions of the Resolution, that being the sole obligation of the Authority.

**SECTION 6: CERTIFICATIONS.** The Escrow Agent shall be authorized to accept and rely upon the certifications and documents furnished to the Escrow Agent by the Authority and the TWDB and shall not be liable for the payment of any funds made in reliance in good faith upon such certifications or other documents or approvals, as herein recited.

**SECTION 7: LIABILITY OF ESCROW AGENT.** To the extent permitted by law, the Escrow Agent shall not be liable for any act done or step taken or omitted by it or any mistake of fact or law, except for its negligence or willful misconduct or failure in the performance of any obligation imposed upon it hereunder. The Escrow Agent shall not be responsible in any manner for any proceedings in connection with the Obligations or any recitation contained in the Obligations.

**SECTION 8: RECORDS.** The Escrow Agent will keep complete and correct books of record and account relating to the receipts, disbursements, allocations and application of the money deposited to the Escrow Account, and investments of the Escrow Account and all proceeds thereof.

The records shall be available for inspection and copying at reasonable hours and under reasonable conditions by the Authority and the TWDB.

**SECTION 9: MERGER/CONSOLIDATION.** In the event that the Escrow Agent merges or consolidates with another entity or sells or transfers substantially all of its assets or corporate trust business, then the successor entity shall be the successor Escrow Agent without the necessity of further action as long as the successor entity is a state or national bank designated by the Texas Comptroller as a state depository institution in accordance with Texas Government Code, Chapter 404, Subchapter C, or is a designated custodian of collateral in accordance with Texas Government Code Chapter 404, Subchapter D. The Escrow Agent must provide the TWDB with written notification within 30 days of acceptance of the merger, consolidation, or transfer. If the merger, consolidation or other transfer has occurred between state banks, the newly-created entity shall forward the certificate of merger or exchange issued by the Texas Department of Banking as well as the statement filed with the pertinent chartering authority, if applicable, to the TWDB within five business days following such merger, consolidation or exchange.

**SECTION 10: AMENDMENTS.** This Agreement may be amended from time to time as necessary with the written consent of the Authority and the TWDB, but no such amendments shall increase the liabilities or responsibilities or diminish the rights of the Escrow Agent without its consent.

**SECTION 11: TERMINATION.** In the event that this Agreement is terminated by either the Authority or by the Escrow Agent, the Escrow Agent must report said termination in writing to the TWDB within five business days of such termination. The Authority is responsible for ensuring that the following criteria are satisfied in selecting the successor escrow agent and notifying the TWDB of the change in escrow agents: (a) the successor escrow agent must be an FDIC-insured state or national bank designated by the Texas Comptroller as a state depository, or is a designated custodian of collateral in accordance with Texas Government Code Chapter 404, Subchapter D; (b) the successor escrow agent must be retained prior to or at the time of the termination; (c) an escrow agreement must be executed by and between the Authority and the successor escrow agent and must contain the same or substantially similar terms and conditions as are present in this Agreement; and (d) the Authority must forward a copy of the executed escrow agreement with the successor escrow agent and to the TWDB within five business days of said termination. No funds shall be released by the TWDB until it has received, reviewed and approved the escrow agreement with the successor escrow agent. If the Authority has not appointed a successor escrow agent within thirty (30) days of the notice of termination, the Escrow Agent may petition any court of competent jurisdiction in Texas for the appointment of a successor escrow agent or for other appropriate relief, and any such resulting appointment shall be binding upon the Authority. Whether appointed by the Authority or a court, the successor escrow agent and escrow agreement must be approved by the TWDB for the appointment to be effective. The Escrow Agent is responsible for performance under this Agreement until a successor has been approved by the TWDB and has signed an acceptable escrow agreement.

**SECTION 12: EXPIRATION.** This Agreement shall expire upon final transfer of the funds in the Escrow Account to the Authority.

**SECTION 13: POINT OF CONTACT.** The points of contact for the Escrow Agent, the Authority and the TWDB are as follows:

The Bank of New York Mellon Trust  
Company, National Association  
2001 Bryan Street, 10<sup>th</sup> Floor  
Dallas, Texas 75201  
Ph: (214) 468-5036  
Attn: Corporate Trust

Karen Bondy  
General Manager  
BCRUA  
221 E. Main Street  
Round Rock, Texas 78664  
Ph: 512-215-9151  
[kbondy@bcrua.org](mailto:kbondy@bcrua.org)

Jeff Walker  
Executive Administrator  
Texas Water Development Board  
1700 North Congress Avenue  
Austin, Texas 78701

**SECTION 14. RIGHTS AND PROTECTIONS.** No provisions of this Agreement shall require the Escrow Agent to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

The Escrow Agent may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

The Escrow Agent may consult with counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered, or omitted by it hereunder in good faith and in reliance thereon.

The Escrow Agent may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians or nominees appointed with due care, and shall not be responsible for any willful misconduct or negligence on the part of any agent, attorney, custodian or nominee so appointed.

Although the Authority recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, the Authority agrees that confirmations of investments are not required to be issued by the Escrow Agent for each month in which a monthly statement is rendered and that no statement need be rendered for the Escrow Account if no activity occurred in such account during such month.

To the extent permitted by law, the Authority agrees to indemnify, defend and hold the Escrow Agent and its officers, directors, agents, and employees harmless from and against any and all loss, damage, claim, liability and expense that may be incurred by the Escrow Agent arising out of or in connection with its acceptance or appointment as Escrow Agent hereunder, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder except that the Escrow Agent shall not be indemnified for any loss, damage, claim, liability, or expense resulting from its own negligence or willful misconduct. The foregoing indemnification shall survive the termination of this Agreement or the resignation or removal of the Escrow Agent for any reason.

**SECTION 15: ELECTRONIC MEANS.** The Escrow Agent shall have the right to accept and act upon instructions, including funds transfer instructions (“Instructions”) given pursuant to this Agreement and delivered using Electronic Means (“Electronic Means” shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Escrow Agent, or another method or system specified by the Escrow Agent as available for use in connection with its services hereunder.); provided, however, that the Authority shall provide to the Escrow Agent an incumbency certificate listing officers with the authority to provide such Instructions (“Authorized Officers”) and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Authority, whenever a person is to be added or deleted from the listing. If the Authority elects to give the Escrow Agent Instructions using Electronic Means and the Escrow Agent in its discretion elects to act upon such Instructions, the Escrow Agent’s understanding of such Instructions shall be deemed controlling. The Authority understands and agrees that the Escrow Agent cannot determine the identity of the actual sender of such Instructions and that the Escrow Agent shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Escrow Agent have been sent by such Authorized Officer. The Authority shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Escrow Agent and that the Authority and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Authority. The Escrow Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Escrow Agent’s reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Authority agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Escrow Agent, including without limitation the risk of the Escrow Agent acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Escrow Agent and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Authority; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Escrow Agent immediately upon learning of any compromise or unauthorized use of the security procedures.

**SECTION 16. COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

**SECTION 17: CHOICE OF LAW.** This Agreement shall be governed exclusively by the applicable laws of the State of Texas. Venue for disputes shall be in the District Court of Travis County, Texas.

**SECTION 18: ASSIGNABILITY.** This Agreement shall not be assignable by the parties hereto, in whole or in part, and any attempted assignment shall be void and of no force and effect; provided, however, that such assignment made by the Escrow Agent pursuant to Section 9 hereof shall be permitted hereunder.

**SECTION 19: ENTIRE AGREEMENT.** This Agreement evidences the entire Escrow Agreement between the Escrow Agent and the Authority and supersedes any other agreements, whether oral or written, between the parties regarding the Proceeds or the Escrow Account.

**SECTION 20: VALIDITY OF PROVISIONS.** If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

**SECTION 21: COMPENSATION FOR ESCROW SERVICES.** The Escrow Agent shall be entitled to compensation for its services as stated in Exhibit A, which compensation shall be paid by the Authority but may not be paid directly from the Escrow Account.

**SECTION 22: CERTIFICATIONS REGARDING TEXAS GOVERNMENT CODE.**

(a) This Agreement has a value of less than \$100,000 for purposes of Sections 2271.002 and 2274.002, Texas Government Code.

(b) The Escrow Agent represents that, neither the Escrow Agent, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, are companies identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/publications/divestment.php>. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Escrow Agent and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of the same, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Escrow Agent understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Escrow Agent and exists to make a profit.

**SECTION 23: EXEMPTION FROM DISCLOSURE FORM.** The Escrow Agent represents and warrants that it is "a wholly owned subsidiary of The Bank of New York Mellon Corporation, a publicly traded business entity, and therefore this Agreement is exempt from Section 2252.908, Texas Government Code, as amended".

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective upon signature of both parties.

BRUSHY CREEK REGIONAL UTILITY AUTHORITY

By: \_\_\_\_\_  
Authorized Representative

Date: \_\_\_\_\_

Address: 221 East Main Street  
Round Rock, Texas 78664



THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,  
as Escrow Agent

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT A**

### **Fee Schedule**

**EXHIBIT "B"**

**FORM OF PRIVATE PLACEMENT MEMORANDUM**

**[See Separate Tab of Transcript]**

**PRIVATE PLACEMENT MEMORANDUM DATED OCTOBER \_\_, 2023**

**NEW ISSUE BOOK-ENTRY-ONLY**

*On the date of initial delivery of the Obligations (defined below), Issuer Bond Counsel (identified on page i) will render its opinion substantially in the form attached in "APPENDIX C – FORM OF OPINION OF BOND COUNSEL."*

**\$41,750,000**

**BRUSHY CREEK REGIONAL UTILITY AUTHORITY, INC.  
CITY OF ROUND ROCK, TEXAS CONTRACT REVENUE BONDS (BRUSHY CREEK REGIONAL  
WATER TREATMENT AND DISTRIBUTION PROJECT), SERIES 2023  
(THE "OBLIGATIONS")**

**Dated: November 15, 2023**

**Due: August 1**

**Interest accrues from the Delivery Date shown below**

Interest Date:	Interest on the Obligations will be payable on February 1 and August 1 each year, commencing February 1, 2024 (each an "Interest Payment Date"). The Obligations will bear interest at the rates per annum set forth in "APPENDIX A – MATURITY SCHEDULE."
Record Date:	The close of business on the fifteenth (15th) day of the calendar month next preceding each Interest Payment Date.
Date Interest Accrues:	Each Obligation shall bear interest from the Delivery Date thereof or the most recent Interest Payment Date to which interest has been paid or provided for at the rate set forth in "APPENDIX A – Maturity Schedule," such interest payable semiannually on February 1 and August 1 of each year until the earliest of maturity or prior redemption, commencing on February 1, 2024.
Redemption:	On February 1, 2034, or on any date thereafter, the Obligations maturing on and after August 1, 2034 may be redeemed prior to their scheduled maturities, at the option of the Issuer, with funds derived from any available and lawful source, at par plus accrued interest to the date fixed for redemption as a whole, or in part, and if less than all of a maturity is to be redeemed the Paying Agent/Registrar shall determine by lot the Obligations, or portions thereof within such maturity to be redeemed (provided that a portion of an Obligation may be redeemed only in integral multiples of \$5,000 of principal amount). See "THE OBLIGATIONS – Redemption Provisions" herein.
Authorized Denominations:	The Obligations are being issued as fully registered bonds in denominations of <b>\$5,000</b> , or any integral multiple thereof.
Paying Agent/Registrar/Registrar:	The paying agent ("Paying Agent/Registrar/Registrar") for the Obligations is The Bank of New York Mellon Trust Company, N.A., Dallas, Texas.
Book-Entry-Only System	Upon initial issuance, the ownership of the Obligations will be registered in the registration books of the Issuer kept by the Paying Agent/Registrar, in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC") to which principal, redemption premium, if any, and interest payments on the Obligations will be made. The purchasers of the Obligations will not receive physical delivery of bond certificates. Principal of, interest, and premium if any, on the Obligations will be payable at the designated office of the Paying Agent/Registrar in Dallas, Texas as the same become due and payable.
Issuer:	Brushy Creek Regional Utility Authority, Inc.
Official Action:	Resolution, dated October 25, 2023.
Purpose:	See "APPENDIX B – OFFICIAL ACTION."
Security for the Obligations:	See APPENDIX B – OFFICIAL ACTION."
Ratings:	See "OTHER INFORMATION – Ratings"
Delivery Date:	November 15, 2023.

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See "APPENDIX A – MATURITY SCHEDULE" for Principal Amounts, Maturities,  
Interest Rates, Yields, and Initial CUSIP Numbers

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## AUTHORITY OFFICIALS, STAFF AND CONSULTANTS

Policy making and supervisory functions of the Issuer are the responsibility of and are vested in a six-member Board of Directors (“Board”). The Board members serve two-year staggered terms and are two members appointed by each member city, including the City of Round Rock, Texas, the City of Round Rock, Texas and the City of Leander, Texas. The Issuer’s Articles of Incorporation delegates administrative responsibilities of the Issuer to the General Manager. Various support services are provided by independent consultants and advisors.

Board of Directors	Position
Matt Baker	President
Na’Cole Thompson	Vice President
Anne Duffy	Secretary
Rene Flores	Citizen Director
Mel Kirkland	Citizen Director
Jason Anderson	Citizen Director

## SELECTED ADMINISTRATIVE STAFF

Name	Position
Karen Bondy	General Manager

## CONSULTANTS AND ADVISORS

Auditors .....	Weaver and Tidwell, L.L.P. Austin, Texas
Bond Counsel .....	McCall, Parkhurst & Horton L.L.P. Austin, Texas
Financial Advisor.....	Specialized Public Finance Inc. Austin, Texas

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**PRIVATE PLACEMENT MEMORANDUM**  
**relating to**

**\$41,750,000**

**BRUSHY CREEK REGIONAL UTILITY AUTHORITY, INC.**  
**CITY OF ROUND ROCK, TEXAS CONTRACT REVENUE BONDS (BRUSHY CREEK**  
**REGIONAL WATER TREATMENT AND DISTRIBUTION PROJECT), SERIES 2023**  
**(the “Obligations”)**

**INTRODUCTION**

This Private Placement Memorandum, including the cover page and appendices, contains brief descriptions of the Issuer, provides certain information with respect to the issuance by the Issuer, and summaries of certain provisions of the “Obligations” pursuant to the Official Action. Except as otherwise set forth herein, capitalized terms used but not defined in this Private Placement Memorandum have the meanings assigned to them in the Official Action. See “APPENDIX B – FORM OF OFFICIAL ACTION” attached hereto.

APPENDIX A contains the maturity schedule for the Obligations. APPENDIX B contains the Official Action and a description of the purpose for the proceeds of the Obligations. APPENDIX C contains a copy of the proposed opinion of Bond Counsel with respect to the Obligations. The summaries of the documents contained in the forepart of this Private Placement Memorandum are not complete or definitive, and every statement made in this Private Placement Memorandum concerning any provision of any document is qualified by reference to such document in its entirety.

**THE OBLIGATIONS**

**General Description**

The Obligations are being issued in the aggregate principal amount set forth in APPENDIX A of this Private Placement Memorandum and will mature and be subject to redemption prior to maturity as described therein. The Obligations are being issued as fully registered bonds in denominations of **\$5,000**, or any integral multiple thereof. The Obligations will be dated November 15, 2023 and will mature on the dates, and will bear interest at the rates per annum set forth in “APPENDIX A – MATURITY SCHEDULE.”

Interest on the Obligations is payable semiannually on each Interest Payment Date, and will be calculated on the basis of a 360-day year consisting of twelve 30-day months. Principal of and the redemption price with respect to the Obligations will be payable to the Owners upon presentation and surrender at the designated office of the Paying Agent/Registrar.

**Purpose**

See “APPENDIX B – FORM OF OFFICIAL ACTION.”

**Authority for Issuance**

The Obligations are issued pursuant to the Constitution and the general laws of the State of Texas, including Subchapter D of Chapter 431, Texas Transportation Code, as amended (the “Act”); and the Official Action.

**Security for the Obligations**

See “APPENDIX B – FORM OF OFFICIAL ACTION.”

**Redemption Provisions**

On February 1, 2034, or on any date thereafter, the Obligations maturing on and after August 1, 2034 may be redeemed prior to their scheduled maturities, at the option of the Issuer, with funds derived from any available and lawful source, at par plus accrued interest to the date fixed for redemption as a whole, or in part, and if less than all of

a maturity is to be redeemed the Paying Agent/Registrar shall determine by lot the Obligations, or portions thereof within such maturity to be redeemed (provided that a portion of an Obligation may be redeemed only in integral multiples of \$5,000 of principal amount).

### **Book-Entry-Only System**

*The information in this caption concerning The Depository Trust Company, New York, New York (“DTC”) and DTC’s book entry system has been obtained from DTC and the Issuer makes no representation or warranty nor takes any responsibility for the accuracy or completeness of such information.*

DTC will act as securities depository for the Obligations. The Obligations will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered certificate will be issued for each maturity of the Obligations and deposited with DTC. See “APPENDIX B – FORM OF OFFICIAL ACTION.”

DTC is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity, corporate and municipal debt issues, and money market instrument (from over 100 countries) that DTC’s participants (the “Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions, in deposited securities, through electronic computerized book entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearance Corporation, and Fixed Income Clearance Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has Standard & Poor’s highest rating: “AA+.” The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

## **TAX MATTERS**

### **Opinion**

Bond Counsel will deliver its opinion on the date of delivery of the Obligations substantially in the form as attached in “APPENDIX C – FORM OF OPINION OF BOND COUNSEL.”

## **OTHER INFORMATION**

### **Settlement of Purchase of Obligations**

The Issuer intends for the delivery of the Obligations to be facilitated through the book-entry-only system of DTC. See “THE OBLIGATIONS – Book-Entry-Only System.” In connection with the delivery of the Obligations, a settlement agent may be used to effect the delivery of the Obligations. If such a settlement agent is used, such settlement agent (i) is being used solely to facilitate book-entry delivery of the Obligations, (ii) will be acting solely as a “Clearing DTC Participant” and not as an “underwriter” (each as defined in Section 2(a)(11) of the U.S. Securities Act of 1933, as amended, (iii) is not acting as a fiduciary or municipal advisor to Issuer with regard to the Obligations and, accordingly, has no fiduciary duty to the Issuer under Federal or state securities laws, and therefore is not required by federal or state law to act in the best interests of the Issuer, (iv) in providing information to the Issuer, is not providing “advice” with the meaning of Section 15B of the Securities Exchange Act of 1934, as amended, and that the information provided has not been relied on by the Issuer in the issuance of the Obligations and (v) has not provided any legal, accounting, regulatory or tax advice to the Issuer.



## **Forward Looking Statements**

The statements contained in this Private Placement Memorandum, including the cover page, appendices, and any other information or documents provided by the Issuer, that are not purely historical, are forward-looking statements, including statements regarding the Issuer's expectations, hopes, intentions, or strategies regarding the future. Holders and beneficial owners of the Obligations have placed reliance on forward-looking statements. All forward looking statements included in this Private Placement Memorandum are based on information available to the Issuer on the date hereof. It is important to note that the Issuer's actual results could differ materially from those in such forward-looking statements.

## **Ratings**

No application has been made to any ratings agency or municipal bond insurance company for qualification of the Obligations for ratings or municipal bond insurance, respectively.

## **LITIGATION**

### **General**

On the date of delivery of the Obligations to the initial purchasers thereof, the Issuer will execute and deliver a certificate to the effect that, except as disclosed herein, no litigation of any nature has been filed or is pending, as of that date, to restrain or enjoin the issuance or delivery of the Obligations or which would affect the provisions made for their payment or security or in any manner questioning the validity of the Obligations.

### **The Issuer**

There is no litigation, proceeding, inquiry, or investigation pending by or before any court or other governmental authority or entity (or, to the best knowledge of the Issuer, threatened) that adversely affects the power, authority or obligation of the Issuer to deliver the Obligations, the security for, or the validity of, the Obligations or the financial condition of the Issuer.

## **CONTINUING DISCLOSURE OF INFORMATION**

In the Official Action, the Issuer has made the following agreement for the benefit of the holders and beneficial owners of the Obligations. The Issuer is required to observe the agreement for so long as it remains obligated to advance funds to pay the Obligations. Under the agreement, the Issuer will be obligated to provide certain updated financial information and operating data, and timely notice of specified material events, to the Municipal Securities Rulemaking Board through the Electronic Municipal Market Access System. See "APPENDIX B – FORM OF OFFICIAL ACTION."

### **Compliance with Prior Undertakings**

During the last five years, the Issuer has complied in all material respects with all continuing disclosure agreements made by it in accordance with the Rule.

## **MISCELLANEOUS**

Any statements made in this Private Placement Memorandum involving matters of opinion or of estimates, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates will be realized. Neither this Private Placement Memorandum nor any statement that may have been made verbally or in writing is to be construed as a contract with the owners of the Obligations.

The information contained above is neither guaranteed as to accuracy or completeness nor to be construed as a representation by the Issuer. The information and expressions of opinion herein are subject to change without notice and neither the delivery of this Private Placement Memorandum nor any sale made hereunder is to create, under any circumstances, any implication that there has been no change in the affairs of the Issuer or the Issuer from the date hereof.

The Private Placement Memorandum is submitted in connection with the sale of the securities referred to herein to the Texas Water Development Board on the Delivery Date and may not be reproduced or used, as a whole or in part, for any other purpose.

#### **ADDITIONAL INFORMATION**

The Private Placement Memorandum speaks only as of its date and the information contained herein is subject to change. Descriptions of the Obligations and the Official Action and any other agreements and documents contained herein constitute summaries of certain provisions thereof and do not purport to be complete.

**APPENDIX A**

**MATURITY SCHEDULE**

August 1 Maturity	Principal Amount	Rate	Initial Yield	CUSIP Numbers
2024	\$ 1,530,000	3.090%	3.090%	
2025	1,195,000	3.070%	3.070%	
2026	1,225,000	2.980%	2.980%	
2027	1,260,000	2.910%	2.910%	
2028	1,290,000	2.890%	2.890%	
2029	1,325,000	2.900%	2.900%	
2030	1,355,000	2.920%	2.920%	
2031	1,390,000	2.990%	2.990%	
2032	1,425,000	3.010%	3.010%	
2033	1,460,000	3.020%	3.020%	
2034	1,495,000	3.140%	3.140%	
2035	1,535,000	3.260%	3.260%	
2036	1,580,000	3.400%	3.400%	
2037	1,625,000	3.490%	3.490%	
2038	1,680,000	3.580%	3.580%	
2039	1,735,000	3.810%	3.810%	
2040	1,795,000	3.850%	3.850%	
2041	1,855,000	3.890%	3.890%	
2042	1,920,000	3.940%	3.940%	
2043	1,990,000	3.940%	3.940%	
2044	2,060,000	3.900%	3.900%	
2045	2,135,000	4.040%	4.040%	
2046	2,215,000	4.040%	4.040%	
2047	2,295,000	4.040%	4.040%	
2048	2,380,000	4.040%	4.040%	

**APPENDIX B**

**FORM OF OFFICIAL ACTION**

**APPENDIX C**

**FORM OF OPINION OF BOND COUNSEL**

## EXHIBIT "C"

### APPROVAL CERTIFICATE

The undersigned City Manager of the City of Round Rock, Texas, pursuant to the resolution adopted by the City Council on October 26, 2023 (the "Approving Resolution") approving "A Resolution Approving a Resolution by the Board of Directors of the Brushy Creek Regional Utility Authority, Inc. Authorizing the Issuance of Brushy Creek Regional Utility Authority, Inc. City of Round Rock, Texas Contract Revenue Bonds, (Brushy Creek Regional Water Treatment and Distribution Project), Series 2023; Establishing the Procedures for Selling and Delivering the Bonds and Resolving Other Matters Incident and Relating to the Issuance, Payment, Security, Sale, and Delivery of Such Bonds" authorizing the issuance of obligations designated as "Brushy Creek Regional Utility Authority Inc., City of Round Rock, Texas Contract Revenue Bonds (Brushy Creek Regional Water Treatment and Distribution Project), Series 2023" (the "Bonds") do hereby approve the following terms of the Bonds:

- (i) the total principal amount of the Bonds of \$41,750,000;
- (ii) the purchase price for the Bonds is \$41,750,000;
- (iii) the dated date of the Bonds is November 15, 2023;
- (iv) the interest rates and maturity schedule for the Bonds are as set forth below:

<b>Principal Amount</b>	<b>Maturity (August 1)</b>	<b>Interest Rate</b>	<b>Principal Amount</b>	<b>Maturity (August 1)</b>	<b>Interest Rate</b>
\$1,530,000	2024	3.090%	\$1,625,000	2037	3.490%
1,195,000	2025	3.070	1,680,000	2038	3.580
1,225,000	2026	2.980	1,735,000	2039	3.810
1,260,000	2027	2.910	1,795,000	2040	3.850
1,290,000	2028	2.890	1,855,000	2041	3.890
1,325,000	2029	2.900	1,920,000	2042	3.940
1,355,000	2030	2.920	1,990,000	2043	3.940
1,390,000	2031	2.990	2,060,000	2044	3.900
1,425,000	2032	3.010	2,135,000	2045	4.040
1,460,000	2033	3.020	2,215,000	2046	4.040
1,495,000	2034	3.140	2,295,000	2047	4.040
1,535,000	2035	3.260	2,380,000	2048	4.040
1,580,000	2036	3.400			

- (v) the Bonds are subject to optional redemption as set forth below:

On February 1, 2034, or on any date thereafter, the Bonds of this series maturing on and after August 1, 2034 may be redeemed prior to their scheduled maturities, at the option of the Brushy Creek Regional Utility Authority Inc., with funds derived from any available and lawful source, at par plus accrued interest to the date fixed for redemption as a whole, or in part, and if less than all of a maturity

is to be redeemed the Paying Agent/Registrar shall determine by lot the Bonds, or portions thereof within such maturity to be redeemed (provided that a portion of a Bond may be redeemed only in integral multiples of \$5,000 of principal amount).

- (vi) Interest on the Bonds accrues from the date of delivery and interest is payable each February 1 and August 1, commencing February 1, 2024.

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**EXECUTED AND DELIVERED** this \_\_\_\_ day of \_\_\_\_\_, 2023.

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Title: City Manager  
City of Round Rock, Texas