



City of Round Rock

City Council

Meeting Agenda

Craig Morgan, Mayor
Will Peckham, Mayor Pro-Tem, Place 4
Tammy Young, Place 1
Rene Flores, Place 2
Frank Leffingwell, Place 3
Writ Baese, Place 5
Vacant, Place 6

Tuesday, November 21, 2017

6:00 PM

City Council Chambers, 221 East Main St.

A. CALL REGULAR SESSION TO ORDER – 6:00 P.M.

B. ROLL CALL

C. PLEDGES OF ALLEGIANCE

D. CITIZEN COMMUNICATION

Any citizen wishing to speak during citizen communication regarding an item on or off the agenda may do so after completing the required registration card. All comments must be no more than 3 minutes in length. Any comments regarding items not on the posted agenda may not be discussed or responded to by the City Council. The Mayor may deny any presenter the opportunity to address the City Council if the presentation or comments offered is substantially repetitive of those previous made, per §2-26(b)(d), of the Round Rock Code of Ordinances, 2010 Edition.

E. APPROVAL OF MINUTES:

- E.1 [2017-4980](#) [Consider approval of the minutes for the November 9, 2017 City Council meeting.](#)

F. RESOLUTIONS:

- F.1 [2017-4984](#) [Consider a resolution authorizing the Mayor to execute the First Amendment to the Administration and Funding Agreement for the City of Round Rock Economic Development Program.](#)
- F.2 [2017-4974](#) [Consider a resolution authorizing the Mayor to execute an Agreement with Musco Lighting, LLC for the purchase of LED field lighting and installation services at Dell Diamond.](#)
- F.3 [2017-4959](#) [Consider a resolution authorizing the Mayor to execute Supplemental Contract No. 1 with Lockwood, Andrews & Newnam, Inc. for the Oak Bluff/Greenfield Drainage Improvements Project.](#)

- F.4 [2017-4972](#) [Consider a resolution authorizing the Mayor to execute a Contract for Engineering Services with Freese and Nichols, Inc. for Erosion, Stabilization and Restoration Work Authorization.](#)

G. ORDINANCES:

- G.1 [2017-4993](#) [Consider a Fifth Supplemental Ordinance to the Master Ordinance Establishing the City of Round Rock, Texas Utility System Revenue Financing Program. \(First Reading\)*](#)

H. COUNCIL COMMENTS REGARDING ITEMS OF COMMUNITY INTEREST

I. ADJOURNMENT

**Pursuant to the terms of Section 3.13 of the Round Rock Home Rule Charter, the second reading of this ordinance may be dispensed with by an affirmative vote of all the City Council members present.*

In addition to any executive session already listed above, the City Council for the City of Round Rock reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code for the following purposes:

§551.071 Consultation with Attorney

§551.072 Deliberations regarding Real Property

§551.073 Deliberations regarding Gifts and Donations

§551.074 Personnel Matters

§551.076 Deliberations regarding Security Devices

§551.087 Deliberations regarding Economic Development Negotiations

POSTING CERTIFICATION

I certify that this notice of the Round Rock City Council Meeting was posted on the 17th day of November 2017 at 5:00 p.m. as required by law in accordance with Section 551.043 of the Texas Government Code.

/ORIGINAL SIGNED/

Sara L. White, TRMC, City Clerk



City of Round Rock

Agenda Item Summary

Agenda Number: E.1

Title: Consider approval of the minutes for the November 9, 2017 City Council meeting.

Type: Minutes

Governing Body: City Council

Agenda Date: 11/21/2017

Dept Director: Sara White, City Clerk

Cost:

Indexes:

Attachments: 110917 Draft Minutes

Department: City Clerk's Office

Text of Legislative File 2017-4980



City of Round Rock

Meeting Minutes - Draft City Council

Thursday, November 9, 2017

CALL REGULAR SESSION TO ORDER – 6:00 P.M.

The Round Rock City Council met in regular session on Thursday, November 9, 2017 in the City Council Chambers located at 221 E. Main Street. Mayor Morgan called the meeting to order at 6:03 p.m.

ROLL CALL

Present: 6 - Mayor Craig Morgan
Councilmember Tammy Young
Councilmember Rene Flores
Councilmember Frank Leffingwell
Mayor Pro-Tem Will Peckham
Councilmember Writ Baese

Absent: 0

PLEDGES OF ALLEGIANCE

CITIZEN COMMUNICATION

Nick Nawratill, 17702 Miller Falls Cove, COO of Helio spoke to the City Council regarding drone operations.

Shirley Marquardt, 2351 Mason Loop way spoke to the City Council regarding Round Rock's Preservation's brick project.

PROCLAMATIONS, STAFF RECOGNITION AND SPECIAL PRESENTATIONS:

- E.1** [2017-4964](#) Consider a special presentation from Penny and Lilly Wood regarding the money they raised for Hurricane Harvey victims.
- E.2** [2017-4905](#) Consider a presentation recognizing the 2017 Local Legend Award recipients.

CONSENT AGENDA:

All items on the Consent Agenda were enacted by one motion. There was no separate discussion of the items and no items were removed from the Consent Agenda.

A motion was made by Councilmember Baese seconded by Councilmember Leffingwell to approve the Consent Agenda. The motion carried by the following vote:

Aye: 6 - Mayor Morgan
Councilmember Young
Councilmember Flores
Councilmember Leffingwell
Mayor Pro-Tem Peckham
Councilmember Baese

Nay: 0

Absent: 0

- F.1** [2017-4940](#) Consider approval of the minutes for the October 26, 2017 City Council meeting.

This item was approved under the Consent Agenda.

- F.2** [2017-4835](#) Consider an ordinance amending Chapter 44, Sections 44-30 and 44-35, Code of Ordinances (2010 Edition), regarding connection and transfer fees. (Second Reading)

This item was approved under the Consent Agenda.

RESOLUTIONS:

- G.1** [2017-4965](#) Consider a resolution authorizing the Mayor to execute a Memorandum of Understanding with M4 Greenlawn, LLC regarding the development of 65.452 acres of land south of SH45 and north of Greenlawn Blvd.

Ben White with the Round Rock Chamber made the presentation to the City Council.

A motion was made by Mayor Pro-Tem Peckham, seconded by Councilmember Baese, that this resolution be approved. The motion carried by the following vote:

Aye: 6 - Mayor Morgan
Councilmember Young
Councilmember Flores
Councilmember Leffingwell
Mayor Pro-Tem Peckham
Councilmember Baese

Nay: 0

Absent: 0

G.2 [2017-4929](#)

Consider a resolution authorizing the Mayor to execute a Funding Approval/Agreement with the U.S. Department of Housing and Urban Development related to the Community Development Block Grant (CDBG) Funds for Program Year 2017-2018.

Liz Alvarado, CDBG Coordinator made the staff presentation.

A motion was made by Councilmember Young, seconded by Councilmember Flores, that this resolution be approved. The motion carried by the following vote:

Aye: 6 - Mayor Morgan
Councilmember Young
Councilmember Flores
Councilmember Leffingwell
Mayor Pro-Tem Peckham
Councilmember Baese

Nay: 0

Absent: 0

G.3 [2017-4963](#)

Consider a resolution authorizing the Mayor to execute an Election Services Contract with Williamson County for the December 16, 2017 Special Election.

Susan Morgan, CFO made the staff presentation.

A motion was made by Mayor Pro-Tem Peckham, seconded by Councilmember Young, that this resolution be approved. The motion carried by the following vote:

Aye: 6 - Mayor Morgan
Councilmember Young
Councilmember Flores
Councilmember Leffingwell
Mayor Pro-Tem Peckham
Councilmember Baese

Nay: 0

Absent: 0

G.4 [2017-4939](#)

Consider a resolution approving the FY 2017/2018 Self-Funded Health Insurance Budget.

Susan Morgan, CFO made the staff presentation.

A motion was made by Councilmember Leffingwell, seconded by Councilmember Young, that this resolution be approved. The motion carried by the following vote:

Aye: 6 - Mayor Morgan
Councilmember Young
Councilmember Flores
Councilmember Leffingwell
Mayor Pro-Tem Peckham
Councilmember Baese

Nay: 0

Absent: 0

G.5 [2017-4944](#)

Consider a resolution to add an addendum to Resolution No. 2017-4700 which authorized the City Manager to execute contracts for pre-approved budgeted items in the maximum amount of \$200,000.

Susan Morgan, CFO made the staff presentation.

A motion was made by Councilmember Flores, seconded by Mayor Pro-Tem Peckham, that this resolution be approved. The motion carried by the following vote:

Aye: 6 - Mayor Morgan
Councilmember Young
Councilmember Flores
Councilmember Leffingwell
Mayor Pro-Tem Peckham
Councilmember Baese

Nay: 0

Absent: 0

G.6 [2017-4894](#)

Consider a resolution authorizing the Mayor to execute an Agreement with David Walther for transportation operations consulting services.

Gary Hudder, Transportation Director made the staff presentation.

A motion was made by Councilmember Young, seconded by Councilmember Baese, that this resolution be approved. The motion carried by the following vote:

Aye: 6 - Mayor Morgan
Councilmember Young
Councilmember Flores
Councilmember Leffingwell
Mayor Pro-Tem Peckham
Councilmember Baese

Nay: 0

Absent: 0

G.7 [2017-4928](#)

Consider a resolution approving the Discount Pass Program Policy for transit services.

Gary Hudder, Transportation Director made the staff presentation.

A motion was made by Mayor Pro-Tem Peckham, seconded by Councilmember Flores, that this resolution be approved. The motion carried by the following vote:

Aye: 6 - Mayor Morgan
Councilmember Young
Councilmember Flores
Councilmember Leffingwell
Mayor Pro-Tem Peckham
Councilmember Baese

Nay: 0

Absent: 0

G.8 [2017-4938](#)

Consider a resolution authorizing the Mayor to execute a Contract with Lone Star Paving for the 2017 Street Maintenance Program Seal Coat / Chip Seal - Downtown Area Project.

Gary Hudder, Transportation Director made the staff presentation.

A motion was made by Councilmember Young, seconded by Councilmember Flores, that this resolution be approved. The motion carried by the following vote:

Aye: 6 - Mayor Morgan
Councilmember Young
Councilmember Flores
Councilmember Leffingwell
Mayor Pro-Tem Peckham
Councilmember Baese

Nay: 0

Absent: 0

G.9 [2017-4923](#)

Consider a resolution authorizing the City Manager to issue a Purchase Order to GE Industrial Solutions for the purchase and installation of new circuit breakers for the Water Treatment Plant

Michael Thane, Utilities and Environmental Services Director made the staff presentation.

A motion was made by Mayor Pro-Tem Peckham, seconded by Councilmember Young, that this resolution be approved. The motion carried by the following vote:

Aye: 6 - Mayor Morgan
Councilmember Young
Councilmember Flores
Councilmember Leffingwell
Mayor Pro-Tem Peckham
Councilmember Baese

Nay: 0

Absent: 0

G.10 [2017-4943](#)

Consider a resolution authorizing the Mayor to execute a Contract with Whitestone Civil Construction, LLC for the Greenlawn Wastewater Extension Project.

Michael Thane, Utilities and Environmental Services Director made the staff presentation.

A motion was made by Councilmember Leffingwell, seconded by Councilmember Baese, that this resolution be approved. The motion carried by the following vote:

Aye: 6 - Mayor Morgan
Councilmember Young
Councilmember Flores
Councilmember Leffingwell
Mayor Pro-Tem Peckham
Councilmember Baese

Nay: 0

Absent: 0

G.11 [2017-4931](#)

Consider a resolution authorizing the Mayor to execute a Standard Form of Agreement between Owner and Contractor with Mid-America Golf & Landscape Inc. for the renovation of golf course features at the Forest Creek Golf Club.

Brian Stillman, Sports Facilities and Operations Manager

A motion was made by Mayor Pro-Tem Peckham, seconded by Councilmember Young, that this resolution be approved. The motion carried by the following vote:

Aye: 6 - Mayor Morgan
Councilmember Young
Councilmember Flores
Councilmember Leffingwell
Mayor Pro-Tem Peckham
Councilmember Baese

Nay: 0

Absent: 0

G.12 [2017-4932](#)

Consider a resolution authorizing the Mayor to execute a Standard Form of Agreement between Owner and Contractor with Mid-America Golf & Landscape Inc. for irrigation renovation at the Forest Creek Golf Club.

Brian Stillman, Sports Facilities and Operations Manager made the staff presentation.

A motion was made by Councilmember Flores, seconded by Councilmember Young, that this resolution be approved. The motion carried by the following vote:

Aye: 6 - Mayor Morgan
Councilmember Young
Councilmember Flores
Councilmember Leffingwell
Mayor Pro-Tem Peckham
Councilmember Baese

Nay: 0

Absent: 0

G.13 [2017-4933](#)

Consider a resolution authorizing the Mayor to execute a Standard Form of Agreement between Owner and Contractor with Mid-America Golf & Landscape Inc. for bridge repair and replacements at the Forest Creek Golf Club.

Brian Stillman, Sports Facilities and Operations Manager made the staff presentation.

A motion was made by Councilmember Baese, seconded by Mayor Pro-Tem Peckham, that this resolution be approved. The motion carried by the following vote:

Aye: 6 - Mayor Morgan
Councilmember Young
Councilmember Flores
Councilmember Leffingwell
Mayor Pro-Tem Peckham
Councilmember Baese

Nay: 0

Absent: 0

G.14 [2017-4934](#)

Consider a resolution authorizing the City Manager to issue a purchase order with Professional Turf Products, L.P. for irrigation materials for the Forest Creek Golf Club Renovation Project.

Brian Stillman, Sports Facilities and Operations Manager made the staff presentation.

A motion was made by Councilmember Young, seconded by Councilmember Baese, that this resolution be approved. The motion carried by the following vote:

Aye: 6 - Mayor Morgan
Councilmember Young
Councilmember Flores
Councilmember Leffingwell
Mayor Pro-Tem Peckham
Councilmember Baese

Nay: 0

Absent: 0

APPOINTMENTS:

H.1 [2017-4945](#)

Consider four (4) appointments to the Round Rock Transportation and Economic Development Corporation to fill expired terms.

A poll of the City Council was done for 2 citizen appointments to the Type B Corporation with the following results:

James Kratz - 6 votes	APPOINTED
Amanda Swor - 5 votes	APPOINTED
Susan Johnon - 0 votes	
Blane Conklin - 0 votes	
Matthew Ramos - 1 vote	

A motion was made by Mayor Morgan, seconded by Mayor Pro-Tem Peckham, that Mayor Morgan and Councilmember Baese be appointed to the Type B Corporation to fill expired terms. The motion carried by the following vote:

Aye: 6 - Mayor Morgan
Councilmember Young
Councilmember Flores
Councilmember Leffingwell
Mayor Pro-Tem Peckham
Councilmember Baese

Nay: 0

Absent: 0

H.2 [2017-4946](#)

Consider four (4) appointments to the Ethics Review Commission to fill expired terms and one (1) appointment to fill an unexpired term.

A poll of the City Council was conducted for these appointments with the following results:

Brent Campbell - 6 votes	APPOINTED
Bernard Buhl - 6 votes	APPOINTED
Susan Johnson - 2 votes	
Brandie Henderson - 1 vote	
Kelly Darby - 4 votes	APPOINTED
Ryan McGahey - 5 votes	APPOINTED

COUNCIL COMMENTS REGARDING ITEMS OF COMMUNITY INTEREST

ADJOURNMENT

There being no further business, Mayor Morgan adjourned the meeting at 7:19 p.m.

Respectfully Submitted,

Sara L. White, City Clerk



City of Round Rock

Agenda Item Summary

Agenda Number: F.1

Title: Consider a resolution authorizing the Mayor to execute the First Amendment to the Administration and Funding Agreement for the City of Round Rock Economic Development Program.

Type: Resolution

Governing Body: City Council

Agenda Date: 11/21/2017

Dept Director: Laurie Hadley, City Manager

Cost:

Indexes: RR Transportation and Economic Development Corporation (Type B)

Attachments: Resolution, Exhibit A

Department: Administration

Text of Legislative File 2017-4984

Reimbursement for completion of the Economic Development Action Plan. The Plan aims to strengthen and sustain Round Rock's competitive position and attract and retain the types of businesses that will continue to create jobs and opportunities in the City.

Cost: \$125,000

Source of Funds: RR Transportation and Economic Development Corporation

RESOLUTION NO. R-2017-4984

WHEREAS, the City of Round Rock (“City”) has previously entered into an Administration and Funding Agreement for the City of Round Rock Economic Development Program (“Agreement”) on the 26th day of January, 2017 by and among the City of Round Rock, the Round Rock Transportation and Economic Development Corporation and the Round Rock Chamber of Commerce, Inc., DBA Round Rock Chamber (“Chamber”), collectively the “Parties”; and

WHEREAS, the Parties have determined that it is in their best interest to modify and amend the Agreement to provide for the Chamber to engage a consultant to prepare an economic development strategic plan for the City; and

WHEREAS, the Parties now wish to enter into a First Amendment to the Administration and Funding Agreement for the City of Round Rock Economic Development Program, Now Therefore

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ROUND ROCK, TEXAS,

That the Mayor is hereby authorized and directed to execute on behalf of the City a First Amendment to the Administration and Funding Agreement for the City of Round Rock Economic Development Program, a copy of same being attached hereto as Exhibit “A” and incorporated herein for all purposes.

The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

RESOLVED this 21st day of November, 2017.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk

EXHIBIT

"A"

FIRST AMENDMENT TO THE ADMINISTRATION AND FUNDING AGREEMENT FOR THE CITY OF ROUND ROCK ECONOMIC DEVELOPMENT PROGRAM

This First Amendment ("First Amendment") is to that one certain Administration and Funding Agreement for the City of Round Rock Economic Development Program ("Agreement") entered into on the 26th day of January, 2017 by and among the City of Round Rock ("City"), the Round Rock Transportation and Economic Development Corporation ("TED Corp.") and the Round Rock Chamber of Commerce, Inc., DBA Round Rock Chamber, ("Chamber"), collectively the "Parties".

RECITALS

WHEREAS, the Parties entered into the Agreement on the 26th day of January, 2017; and

WHEREAS, the Parties have determined that it is in their best interest to modify and amend the Agreement to provide for the Chamber to engage a consultant to prepare an economic development strategic plan for the City;

NOW THEREFORE, the Parties agree to amend and modify the Agreement as follows:

I.

1.01 Article II, Administration is hereby amended to add Section 2.05 which shall read as follows:

Section 2.05. Economic Development Strategic Plan. The Chamber agrees to engage a qualified consultant to prepare an economic development strategic plan for the City. The City and/or TED Corp. agree to contribute up to a maximum of \$125,000 towards the cost of the said plan.

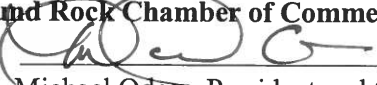
II.

2.01 To the extent necessary to effect the terms and provisions of this First Amendment, the Agreement is hereby amended and modified. In all other respects, the aforesaid Agreement is hereby ratified and confirmed.

2.02 This First Amendment may be executed in counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, this Agreement is entered into to be effective as of the ____ day of November, 2017

Round Rock Chamber of Commerce, Inc., DBA Round Rock Chamber

By: 
Michael Odom, President and CEO

City of Round Rock, Texas

By: _____
Craig Morgan, Mayor

Attest:

Sara White, City Clerk

For City, approved as to form:

Stephan L. Sheets, City Attorney

Round Rock Transportation and Economic Development Corporation

By: _____
_____, its _____

For TED Corp., approved as to form:

Stephan L. Sheets, Corporation Attorney



City of Round Rock

Agenda Item Summary

Agenda Number: F.2

Title: Consider a resolution authorizing the Mayor to execute an Agreement with Musco Lighting, LLC for the purchase of LED field lighting and installation services at Dell Diamond.

Type: Resolution

Governing Body: City Council

Agenda Date: 11/21/2017

Dept Director: Chad McKenzie, Sports Management and Tourism Director

Cost: \$506,000.00

Indexes: Hotel Occupancy Tax Fund

Attachments: Resolution, Exhibit A, Form 1295

Department: Sports Management and Tourism

Text of Legislative File 2017-4974

Musco will provide and install LED field lighting at the Dell Diamond. Item will be processed via Musco's Buyboard contract.

Cost: 506,000

Source of Funds: Hotel Occupancy Tax Fund

RESOLUTION NO. R-2017-4974

WHEREAS, the City of Round Rock (“City”) desires to purchase certain services, LED field lighting and installation services for Dell Diamond, and

WHEREAS, the City is a member of the Buy Board Cooperative Purchasing Program (“Buy Board”), and

WHEREAS, Musco Sports Lighting, LLC is an approved vendor of the Buy Board, and

WHEREAS, the City desires to purchase certain goods and services from Musco Sports Lighting, LLC through Buy Board, Now Therefore

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ROUND ROCK, TEXAS,

That the Mayor is hereby authorized and directed to execute on behalf of the City an Agreement for Purchase of LED Field Lighting and Installation Services at Dell Diamond with Musco Sports Lighting, LLC, a copy of said Agreement being attached hereto as Exhibit “A” and incorporated herein.

The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

RESOLVED this 21st day of November, 2017.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk

EXHIBIT

"A"

**CITY OF ROUND ROCK AGREEMENT FOR
PURCHASE OF LED FIELD LIGHTING AND
INSTALLATION SERVICES AT DELL DIAMOND
WITH
MUSCO SPORTS LIGHTING, LLC**

THE STATE OF TEXAS	§	
	§	
CITY OF ROUND ROCK	§	KNOW ALL BY THESE PRESENTS:
	§	
COUNTY OF WILLIAMSON	§	
COUNTY OF TRAVIS	§	

THAT THIS AGREEMENT for the purchase of LED field lighting and installation services at Dell Diamond located in Round Rock, Texas, and for related goods and services (referred to herein as the "Agreement"), is made and entered into on this the ____ day of the month of November, 2017 by and between the CITY OF ROUND ROCK, a Texas home-rule municipality, whose offices are located at 221 East Main Street, Round Rock, Texas 78664-5299 (referred to herein as the "City"), and MUSCO SPORTS LIGHTING, LLC, whose offices are located at 100 1st Avenue West, P.O. Box 806, Oskaloosa, Iowa 52577 (referred to herein as "Vendor").

RECITALS:

WHEREAS, City desires to purchase certain services, LED field lighting and installation services for Dell Diamond, and City desires to procure same from Vendor; and

WHEREAS, City is a member of the Buy Board Cooperative Purchasing Program ("Buy Board") and Vendor is an approved Buy Board vendor through Buy Board Contract # 512-16; and

WHEREAS, City desires to purchase certain goods and services from Vendor through Buy Board as set forth herein; and

WHEREAS, the parties desire to enter into this Agreement to set forth in writing their respective rights, duties, and obligations;

NOW, THEREFORE, WITNESSETH:

That for and in consideration of the mutual promises contained herein and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, it is mutually agreed between the parties as follows:

1.01 DEFINITIONS

A. **Agreement** means the binding legal contract between City and Vendor whereby City is obligated to buy specified services and Vendor is obligated to provide said services. The Agreement includes Vendor's Proposal dated September 13, 2017 (attached as Exhibit "A").

B. **City** means the City of Round Rock, Williamson and Travis Counties, Texas.

C. **Effective Date** means the date upon which the binding signatures of both parties to this Agreement are affixed.

D. **Force Majeure** means acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind from the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, restraint of the government and the people, civil disturbances, explosions, or other causes not reasonably within the control of the party claiming such inability.

E. **Goods** mean the specified supplies, materials, commodities, or equipment.

F. **Services** mean work performed to meet a demand or effort by Vendor to comply with promised delivery dates, specifications, and technical assistance specified.

2.01 EFFECTIVE DATE, TERM, ALLOWABLE RENEWALS, PRICES FIRM

A. This Agreement shall be effective on the date this Agreement has been signed by each party hereto, and shall remain in full force and effect unless and until it expires by operation of the term indicated herein, or is terminated or extended as provided herein.

B. This Agreement shall terminate upon the purchase and installation of all goods and services as described in Exhibit "A."

C. Prices shall be firm for the duration of this Agreement. No separate line item charges shall be permitted for invoicing purposes, including but not limited to equipment rental, demurrage, costs associated with obtaining permits, or any other extraneous charges.

D. City reserves the right to review the relationship with Vendor at any time, and may elect to terminate this Agreement with or without cause or may elect to continue.

3.01 CONTRACT DOCUMENTS AND EXHIBITS

The goods and services which are the subject matter of this Agreement are described in Exhibit "A" and, together with this Agreement, comprise the Contract Documents. Any inconsistencies or conflicts in the contract documents shall be resolved by giving preference to

the terms and conditions set forth in pages one (1) through nine (9) of this Agreement.

4.01 SCOPE OF WORK

Vendor shall satisfactorily complete all services described in Vendor's Proposal, Exhibit "A," attached hereto and incorporated herein.

This Agreement shall evidence the entire understanding and agreement between the parties and shall supersede any prior proposals, correspondence or discussions.

Vendor shall satisfactorily provide all deliverables and services described in Exhibit "A" within the contract term specified. A change in the Scope of Services must be negotiated and agreed to in all relevant details, and must be embodied in a valid Supplemental Agreement as described herein.

5.01 CONTRACT AMOUNT

In consideration for the deliverables and services related to the deliverables, the City agrees to pay Vendor **Five Hundred Six Thousand and No/100 Dollars (\$506,000.00)** for the goods and services set forth in Exhibit "A."

6.01 INVOICES

All invoices shall include, at a minimum, the following information:

- A. Name and address of Vendor;
- B. Purchase Order Number;
- C. Description and quantity of items received or services provided; and
- D. Delivery or performance dates.

7.01 NON-APPROPRIATION AND FISCAL FUNDING

This Agreement is a commitment of City's current revenues only. It is understood and agreed that City shall have the right to terminate this Agreement at the end of any City fiscal year if the governing body of City does not appropriate funds sufficient to purchase the services as determined by City's budget for the fiscal year in question. City may effect such termination by giving Vendor a written notice of termination at the end of its then current fiscal year.

8.01 PROMPT PAYMENT POLICY

In accordance with Chapter 2251, V.T.C.A., Texas Government Code, payment to Vendor will be made within thirty (30) days of the day on which City receives the performance, supplies, materials, equipment, and/or deliverables, or within thirty (30) days of the day on which the performance of services was complete, or within thirty (30) days of the day on which City receives a correct invoice for the performance and/or deliverables or services, whichever is later. Vendor may charge interest on an overdue payment at the “rate in effect” on September 1 of the fiscal year in which the payment becomes overdue, in accordance with V.T.C.A., Texas Government Code, Section 2251.025(b); however, this Policy does not apply to payments made by City in the event:

- A. There is a bona fide dispute between City and Vendor, a contractor, subcontractor or supplier about the goods delivered or the service performed that cause the payment to be late; or
- B. The terms of a federal contract, grant, regulation, or statute prevent City from making a timely payment with federal funds; or
- C. There is a bona fide dispute between Vendor and a subcontractor or between a subcontractor and its supplier about the goods delivered or the service performed that causes the payment to be late; or
- D. Invoices are not mailed to City in strict accordance with instructions, if any, on the purchase order or the Agreement or other such contractual agreement.

9.01 GRATUITIES AND BRIBES

City may, by written notice to Vendor, cancel this Agreement without liability to Vendor if it is determined by City that gratuities or bribes in the form of entertainment, gifts, or otherwise were offered or given by Vendor or its agents or representatives to any City officer, employee or elected representative with respect to the performance of this Agreement. In addition, Vendor may be subject to penalties stated in Title 8 of the Texas Penal Code.

10.01 TAXES

City is exempt from Federal Excise and State Sales Tax; therefore, tax shall not be included in Vendor’s charges.

11.01 ORDERS PLACED WITH ALTERNATE SERVICES PROVIDERS

If Vendor cannot provide the goods as specified, City reserves the right and option to obtain the products from another supplier or suppliers.

12.01 CITY'S REPRESENTATIVE

City hereby designates the following representative authorized to act in its behalf with regard to this Agreement:

Brian Stillman
Sports Facilities & Operations Manager
Sports Management and Tourism
221 East Main Street
Round Rock, Texas 78664
(512) 218-6607

13.01 INSURANCE

Vendor shall meet all City of Round Rock Insurance Requirements as set forth at: http://www.roundrocktexas.gov/wp-content/uploads/2014/12/corr_insurance_07.20112.pdf.

14.01 RIGHT TO ASSURANCE

Whenever either party to this Agreement, in good faith, has reason to question the other party's intent to perform hereunder, then demand may be made to the other party for written assurance of the intent to perform. In the event that no written assurance is given within the reasonable time specified when demand is made, then and in that event the demanding party may treat such failure as an anticipatory repudiation of this Agreement.

15.01 DEFAULT

If Vendor abandons or defaults under this Agreement and is a cause of City purchasing the specified goods elsewhere, Vendor agrees that it may be charged the difference in cost, if any, and that it will not be considered in the re-advertisement of the service and that it may not be considered in future bids for the same type of work unless the scope of work is significantly changed.

Vendor shall be declared in default of this Agreement if it does any of the following:

- A. Fails to fully, timely and faithfully perform any of its material obligations under this Agreement;
- B. Fails to provide adequate assurance of performance under the "Right to Assurance" section herein; or
- C. Becomes insolvent or seeks relief under the bankruptcy laws of the United States.

16.01 TERMINATION AND SUSPENSION

A. City has the right to terminate this Agreement, in whole or in part, for convenience and without cause, at any time upon thirty (30) days' written notice to Vendor.

B. In the event of any default by Vendor, City has the right to terminate this Agreement for cause, upon ten (10) days' written notice to Vendor.

C. Vendor has the right to terminate this Agreement only for cause, that being in the event of a material and substantial breach by City, or by mutual agreement to terminate evidenced in writing by and between the parties.

D. In the event City terminates under subsections (A) or (B) of this section, the following shall apply: Upon City's delivery of the referenced notice to Vendor, Vendor shall discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within thirty (30) days after such notice of termination, Vendor shall submit a statement showing in detail the goods and/or services satisfactorily performed under this Agreement to the date of termination. City shall then pay Vendor that portion of the charges, if undisputed. The parties agree that Vendor is not entitled to compensation for services it would have performed under the remaining term of the Agreement except as provided herein.

17.01 INDEMNIFICATION

Vendor shall defend (at the option of City), indemnify, and hold City, its successors, assigns, officers, employees and elected officials harmless from and against all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees, and any and all other costs or fees arising out of, or incident to, concerning or resulting from the fault of Vendor, or Vendor's agents, employees or subcontractors, in the performance of Vendor's obligations under this Agreement, no matter how, or to whom, such loss may occur. Nothing herein shall be deemed to limit the rights of City or Vendor (including, but not limited to the right to seek contribution) against any third party who may be liable for an indemnified claim.

18.01 COMPLIANCE WITH LAWS, CHARTER AND ORDINANCES

A. Vendor, its agents, employees and subcontractors shall use best efforts to comply with all applicable federal and state laws, the Charter and Ordinances of the City of Round Rock, as amended, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies.

B. Vendor acknowledges and understands that City has adopted a Storm Water Management Program (SWMP) and an Illicit Discharge Ordinance, Sections 14-139 through 14-152 of the City's Code of Ordinances, to manage the quality of the discharges from its Municipal

Separate Storm Sewer System (MS4) and to be in compliance with the requirements of the Texas Commission on Environmental Quality (TCEQ) and the Texas Pollutant Discharge Elimination System (TPDES). The Vendor agrees to perform all operations on City-owned facilities in compliance with the City's Illicit Discharge Ordinance to minimize the release of pollutants into the MS4. The Vendor agrees to comply with of the City's stormwater control measures, good housekeeping practices and any facility specific stormwater management operating procedures specific to a certain City facility. In addition, the Vendor agrees to comply with any applicable TCEQ Total Maximum Daily Load (TMDL) Requirements and/or I-Plan requirements.

C. In accordance with Chapter 2270, Texas Government Code, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel and will not boycott Israel during the term of this contract. The signatory executing this Agreement on behalf of Vendor verifies Vendor does not boycott Israel and will not boycott Israel during the term of this Agreement.

19.01 ASSIGNMENT AND DELEGATION

The parties each hereby bind themselves, their successors, assigns and legal representatives to each other with respect to the terms of this Agreement. Neither party shall assign, sublet or transfer any interest in this Agreement without prior written authorization of the other party.

20.01 NOTICES

All notices and other communications in connection with this Agreement shall be in writing and shall be considered given as follows:

1. When delivered personally to the recipient's address as stated in this Agreement;
or
2. Three (3) days after being deposited in the United States mail, with postage prepaid to the recipient's address as stated in this Agreement.

Notice to Vendor:

Musco Sports Lighting, LLC
100 1st Avenue West
P.O. Box 808
Oskaloosa, IA 52577

Notice to City:

City Manager
221 East Main Street
Round Rock, TX 78664

AND TO:

Stephan L. Sheets, City Attorney
309 East Main Street
Round Rock, TX 78664

Nothing contained herein shall be construed to restrict the transmission of routine communications between representatives of City and Vendor.

21.01 APPLICABLE LAW; ENFORCEMENT AND VENUE

This Agreement shall be enforceable in Round Rock, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

22.01 EXCLUSIVE AGREEMENT

This document, and all appended documents, constitutes the entire Agreement between Vendor and City. This Agreement may only be amended or supplemented by mutual agreement of the parties hereto in writing, duly authorized by action of the City Manager or City Council.

23.01 DISPUTE RESOLUTION

City and Vendor hereby expressly agree that no claims or disputes between the parties arising out of or relating to this Agreement or a breach thereof shall be decided by any arbitration proceeding, including without limitation, any proceeding under the Federal Arbitration Act (9 USC Section 1-14) or any applicable state arbitration statute.

24.01 SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

25.01 MISCELLANEOUS PROVISIONS

Standard of Care. Vendor represents that it employs trained, experienced and competent persons to perform all of the services, responsibilities and duties specified herein and that such services, responsibilities and duties shall be performed in a manner according to generally accepted industry practices.

Time is of the Essence. Vendor understands and agrees that time is of the essence and that any failure of Vendor to fulfill obligations for each portion of this Agreement within the agreed timeframes will constitute a material breach of this Agreement. Vendor shall be fully responsible for its delays or for failures to use best efforts in accordance with the terms of this Agreement. Where damage is caused to City due to Vendor's failure to perform in these circumstances, City may pursue any remedy available without waiver of any of City's additional legal rights or remedies.

Force Majeure. Neither City nor Vendor shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reasons for which it is not responsible as defined herein. However, notice of such impediment or delay in performance must be timely given and all reasonable efforts undertaken to mitigate its effects.

Multiple Counterparts. This Agreement may be executed in multiple counterparts, any one of which shall be considered an original of this document; and all of which, when taken together, shall constitute one and the same instrument.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, City and Vendor have executed this Agreement on the dates indicated.

City of Round Rock, Texas

By: _____
Printed Name: _____
Title: _____
Date Signed: _____

Musco Sports Lighting, LLC

By: _____
Printed Name: _____
Title: _____
Date Signed: _____

Attest:

By: _____
Sara L. White, City Clerk

For City, Approved as to Form:

By: _____
Stephan L. Sheets, City Attorney

Exhibit "A"

MUSCO LIGHTING PROPOSAL
PREPARED FOR

Round Rock Express Dell Diamond LED MiLB

LED Lighting Project
Round Rock, TX
~~August 15, 2017~~
September 13, 2017

Project # 133480

SUBMITTED BY

Musco Sports Lighting, LLC

100 1st Avenue West
P.O. Box 808
Oskaloosa, IA 52577
Phone: 800.825.6030
Phone: 641.673.0411
Fax: 641.673.4852



A. QUOTE

B. LIGHTING DESIGN

Computer Model – Constant Light Level
Scans Drawing #133480g3, dated 16-Aug-17

C. STRUCTURAL INFORMATION

Drawing #133480X2_A, dated 17-Aug-17

D. ELECTRICAL INFORMATION

One Line Drawing #133480CL1, dated 133480CL1, dated 10-Jul-17

E. WARRANTY

Musco 25 Year LED Warranty

F. PRODUCT INFORMATION

TLC-LED-1150, 5700K, 75 CRI
ETC Mosaic Show Controls
Pole Configuration Drawing

G. DELIVERY

ITEM A



Round Rock Express Dell Diamond AAA Baseball Stadium

Round Rock, TX

Date: September 5, 2017

To: Brian Stillman

BuyBoard

Master Project: 146396, Contract Number: 512-16, Expiration: 09/30/2019

Commodity: Parks/Rec & Field Lighting

LED Materials including Controls – 5,700K – 75CRI

Musco's LED Green Generation™ as described below and delivered to the job site:

- (152) Musco LED Green Generation Event Lighting Fixtures
- (1) Musco Gateways to provide DMX interface to Musco Drivers
- (1) ETC Mosaic with one touch screen for control of light fixtures with dimming and basic theatrical effects
- All mounting hardware and custom mounts for fixtures and electronic drivers
- Musco to provide on- site project management to assist with the electrical contractor during installation
- Musco to provide final aiming/commissioning of the sports lighting system for approval of the owner's representative
- Musco's Constant 25 Warranty and Services Agreement. Agreement includes parts, labor and lift.
- Guaranteed light levels of 100 foot-candles in the infield and 70 foot-candles in the outfield per MiLB standards

Quotation for Materials and Turnkey Installation.....\$ 506,000

Notes:

- Field Size of 325'/402'/327' for Baseball Field
- Includes installation of new Musco equipment
- Includes demo and removal of existing equipment
- Does not include new poles
- All purchase orders should note the following: Buy Board purchase - Contract Number 512-16

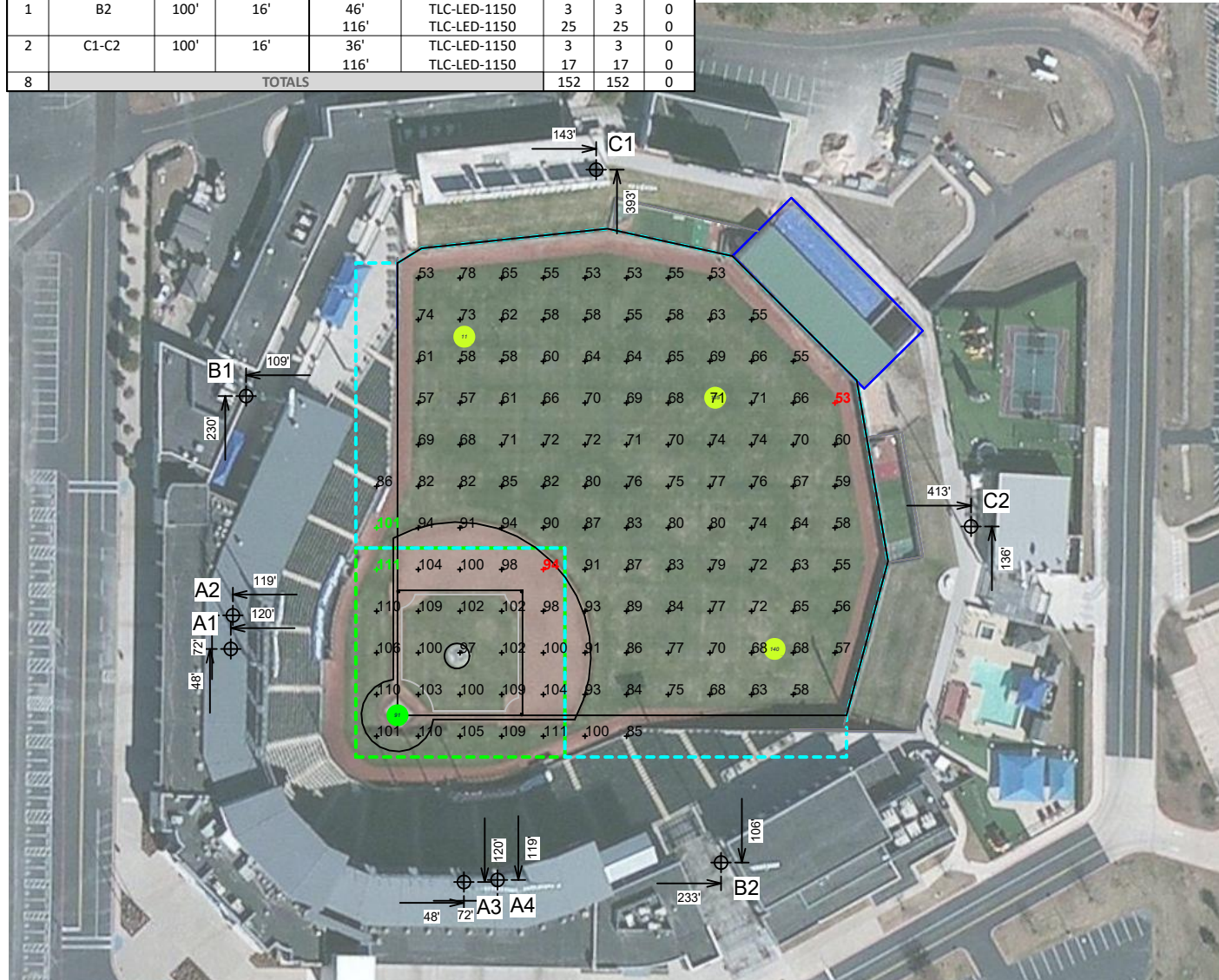
Thank you for considering Musco for your sports-lighting needs. Please contact me with any questions.

Nathan Johnson
Key Account Sales
Musco Sports Lighting, LLC
Phone: 319-331-6734
E-mail: Nathan.johnson@musco.com

ITEM B

EQUIPMENT LIST FOR AREAS SHOWN

Pole				Luminaires				
QTY	LOCATION	SIZE	GRADE ELEVATION	MOUNTING HEIGHT	LUMINAIRE TYPE	QTY / POLE	THIS GRID	OTHER GRIDS
2	A1, A3	50'	46'	47'	TLC-LED-1150	1	1	0
				96'	TLC-LED-1150	12	12	0
2	A2, A4	50'	46'	47'	TLC-LED-1150	1	1	0
				96'	TLC-LED-1150	14	14	0
1	B1	100'	16'	41'	TLC-LED-1150	3	3	0
				116'	TLC-LED-1150	25	25	0
1	B2	100'	16'	46'	TLC-LED-1150	3	3	0
				116'	TLC-LED-1150	25	25	0
2	C1-C2	100'	16'	36'	TLC-LED-1150	3	3	0
				116'	TLC-LED-1150	17	17	0
8	TOTALS					152	152	0



ENGINEERED DESIGN By: Ben Drost • File #133480g3 • 16-Aug-17

Pole location(s) ⊕ dimensions are relative to 0,0 reference point(s) ⊗

Round Rock AAA Baseball

Round Rock, TX

GRID SUMMARY

Name: Baseball
Size: Irregular 326' / 404' / 323'
Spacing: 30.0' x 30.0'
Height: 3.0' above grade

ILLUMINATION SUMMARY

MAINTAINED HORIZONTAL FOOTCANDLES

	Infield	Outfield
Guaranteed Average:	100	70
Scan Average:	103.8	71.1
Maximum:	111	101
Minimum:	94	53
Avg / Min:	1.11	1.34
Guaranteed Max / Min:	1.2	2
Max / Min:	1.18	1.91
UG (adjacent pts):	1.09	1.48
CU:	0.55	
No. of Points:	25	102

LUMINAIRE INFORMATION

Color / CRI: 5700K - 75 CRI
Luminaire Output: 121,000 lumens
No. of Luminaires: 152
Total Load: 174.8 kW

Lumen Maintenance

Luminaire Type	L90 hrs	L80 hrs	L70 hrs
TLC-LED-1150	>51,000	>51,000	>51,000

Reported per TM-21-11. See luminaire datasheet for details.

Guaranteed Performance: The ILLUMINATION described above is guaranteed per your Musco Warranty document and includes a 0.95 dirt depreciation factor.

Field Measurements: Individual field measurements may vary from computer-calculated predictions and should be taken in accordance with IESNA RP-6-15.

Electrical System Requirements: Refer to Amperage Draw Chart and/or the "Musco Control System Summary" for electrical sizing.

Installation Requirements: Results assume ± 3% nominal voltage at line side of the driver and structures located within 3 feet (1m) of design locations.

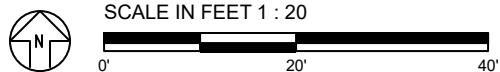
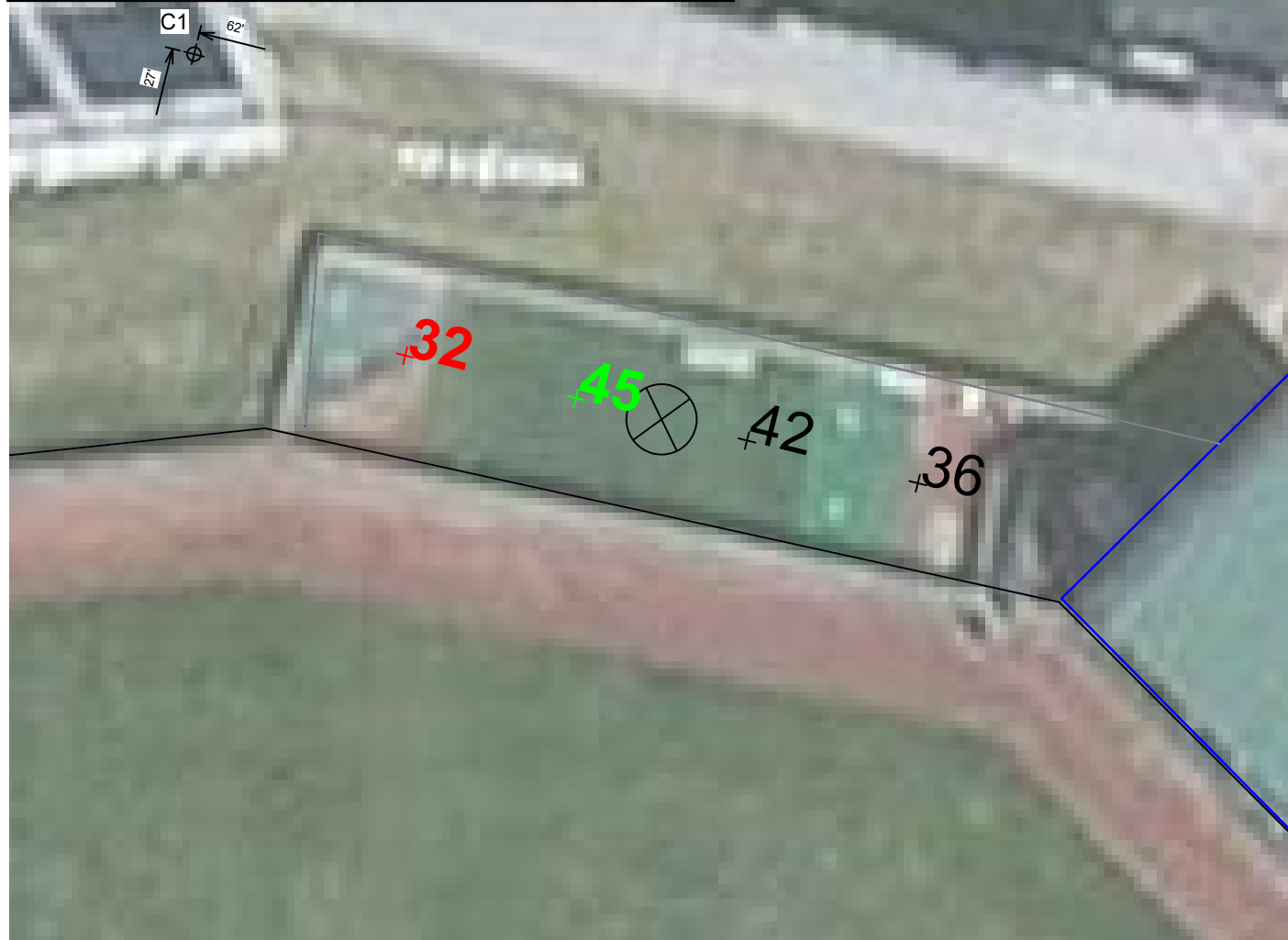


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ILLUMINATION SUMMARY

EQUIPMENT LIST FOR AREAS SHOWN

Pole				Luminaires				
QTY	LOCATION	SIZE	GRADE ELEVATION	MOUNTING HEIGHT	LUMINAIRE TYPE	QTY / POLE	THIS GRID	OTHER GRIDS
2	A1, A3	50'	40'	41'	TLC-LED-1150	1	1	0
				90'	TLC-LED-1150	12	12	0
2	A2, A4	50'	40'	41'	TLC-LED-1150	1	1	0
				90'	TLC-LED-1150	14	14	0
1	B1	100'	10'	35'	TLC-LED-1150	3	3	0
				110'	TLC-LED-1150	25	25	0
1	B2	100'	10'	40'	TLC-LED-1150	3	3	0
				110'	TLC-LED-1150	25	25	0
2	C1-C2	100'	10'	30'	TLC-LED-1150	3	3	0
				110'	TLC-LED-1150	17	17	0
8	TOTALS					152	152	0



ENGINEERED DESIGN By: Ben Drost • File #133480g3 • 16-Aug-17

Pole location(s) ⊕ dimensions are relative to 0,0 reference point(s) ⊗

Round Rock AAA Baseball

Round Rock, TX

GRID SUMMARY

Name: **LF Bullpen**
Spacing: 20.0' x 20.0'
Height: 3.0' above grade

ILLUMINATION SUMMARY

MAINTAINED HORIZONTAL FOOTCANDLES

Entire Grid

Guaranteed Average: **35**

Scan Average: 39.0

Maximum: 45

Minimum: 32

Avg / Min: 1.21

Guaranteed Max / Min: **2**

Max / Min: 1.40

UG (adjacent pts): 1.40

CU: 0.00

No. of Points: 4

LUMINAIRE INFORMATION

Color / CRI: 5700K - 75 CRI

Luminaire Output: 121,000 lumens

No. of Luminaires: **152**

Total Load: 174.8 kW

Lumen Maintenance

Luminaire Type	L90 hrs	L80 hrs	L70 hrs
TLC-LED-1150	>51,000	>51,000	>51,000

Reported per TM-21-11. See luminaire datasheet for details.

Guaranteed Performance: The ILLUMINATION described above is guaranteed per your Musco Warranty document and includes a 0.95 dirt depreciation factor.

Field Measurements: Individual field measurements may vary from computer-calculated predictions and should be taken in accordance with IESNA RP-6-15.

Electrical System Requirements: Refer to Amperage Draw Chart and/or the "Musco Control System Summary" for electrical sizing.

Installation Requirements: Results assume ± 3% nominal voltage at line side of the driver and structures located within 3 feet (1m) of design locations.



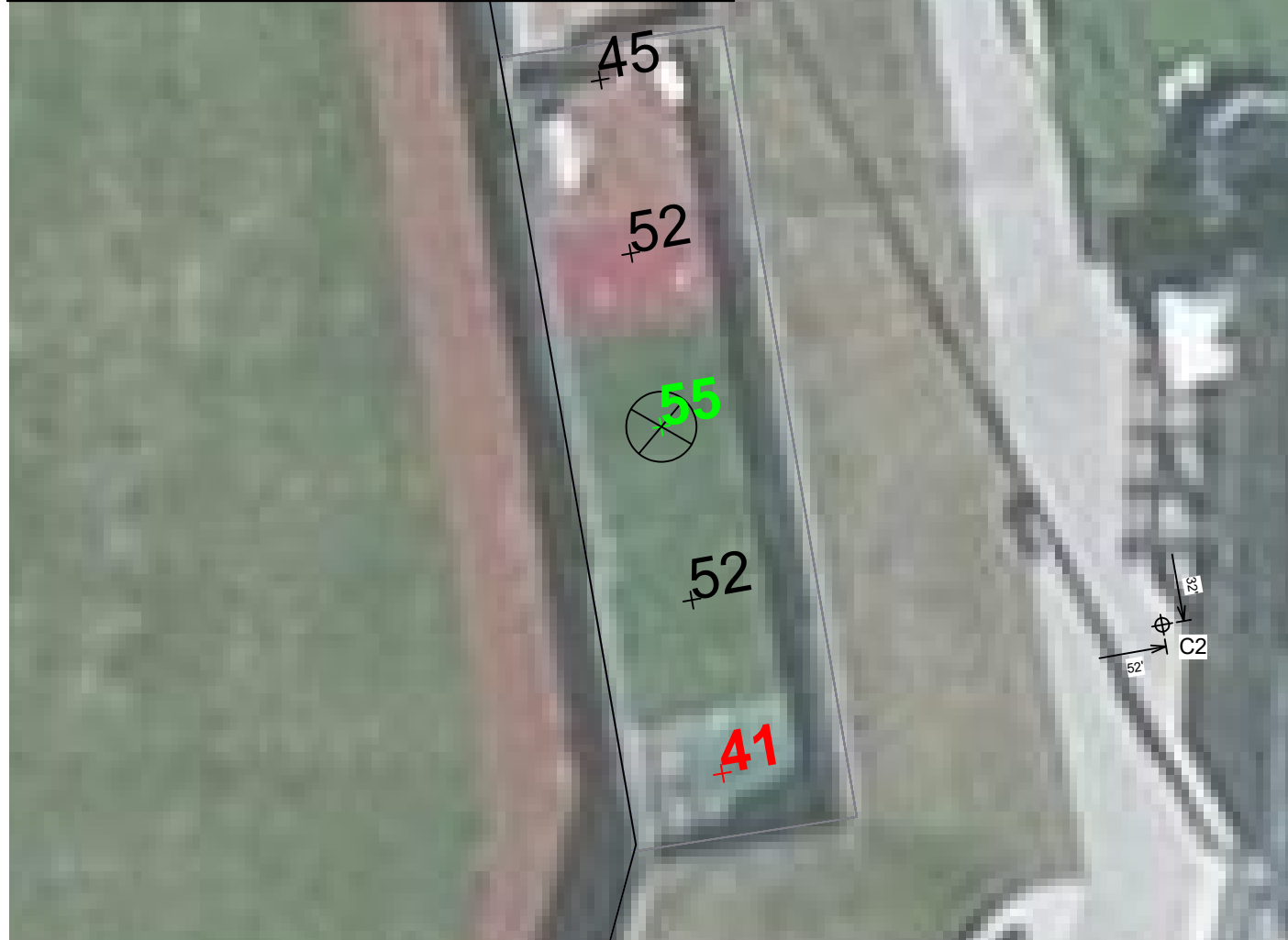
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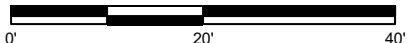
ILLUMINATION SUMMARY

EQUIPMENT LIST FOR AREAS SHOWN

Pole				Luminaires				
QTY	LOCATION	SIZE	GRADE ELEVATION	MOUNTING HEIGHT	LUMINAIRE TYPE	QTY / POLE	THIS GRID	OTHER GRIDS
2	A1, A3	50'	40'	41'	TLC-LED-1150	1	1	0
				90'	TLC-LED-1150	12	12	0
2	A2, A4	50'	40'	41'	TLC-LED-1150	1	1	0
				90'	TLC-LED-1150	14	14	0
1	B1	100'	10'	35'	TLC-LED-1150	3	3	0
				110'	TLC-LED-1150	25	25	0
1	B2	100'	10'	40'	TLC-LED-1150	3	3	0
				110'	TLC-LED-1150	25	25	0
2	C1-C2	100'	10'	30'	TLC-LED-1150	3	3	0
				110'	TLC-LED-1150	17	17	0
8	TOTALS					152	152	0



SCALE IN FEET 1 : 20



Pole location(s) \oplus dimensions are relative to 0,0 reference point(s) \otimes

Round Rock AAA Baseball

Round Rock, TX

GRID SUMMARY

Name: RF Bullpen
Spacing: 20.0' x 20.0'
Height: 3.0' above grade

ILLUMINATION SUMMARY

MAINTAINED HORIZONTAL FOOTCANDLES

Entire Grid

Guaranteed Average: 35

Scan Average: 49.0

Maximum: 55

Minimum: 41

Avg / Min: 1.19

Guaranteed Max / Min: 2

Max / Min: 1.34

UG (adjacent pts): 1.26

CU: 0.01

No. of Points: 5

LUMINAIRE INFORMATION

Color / CRI: 5700K - 75 CRI

Luminaire Output: 121,000 lumens

No. of Luminaires: 152

Total Load: 174.8 kW

Lumen Maintenance

Luminaire Type	L90 hrs	L80 hrs	L70 hrs
TLC-LED-1150	>51,000	>51,000	>51,000

Reported per TM-21-11. See luminaire datasheet for details.

Guaranteed Performance: The ILLUMINATION described above is guaranteed per your Musco Warranty document and includes a 0.95 dirt depreciation factor.

Field Measurements: Individual field measurements may vary from computer-calculated predictions and should be taken in accordance with IESNA RP-6-15.

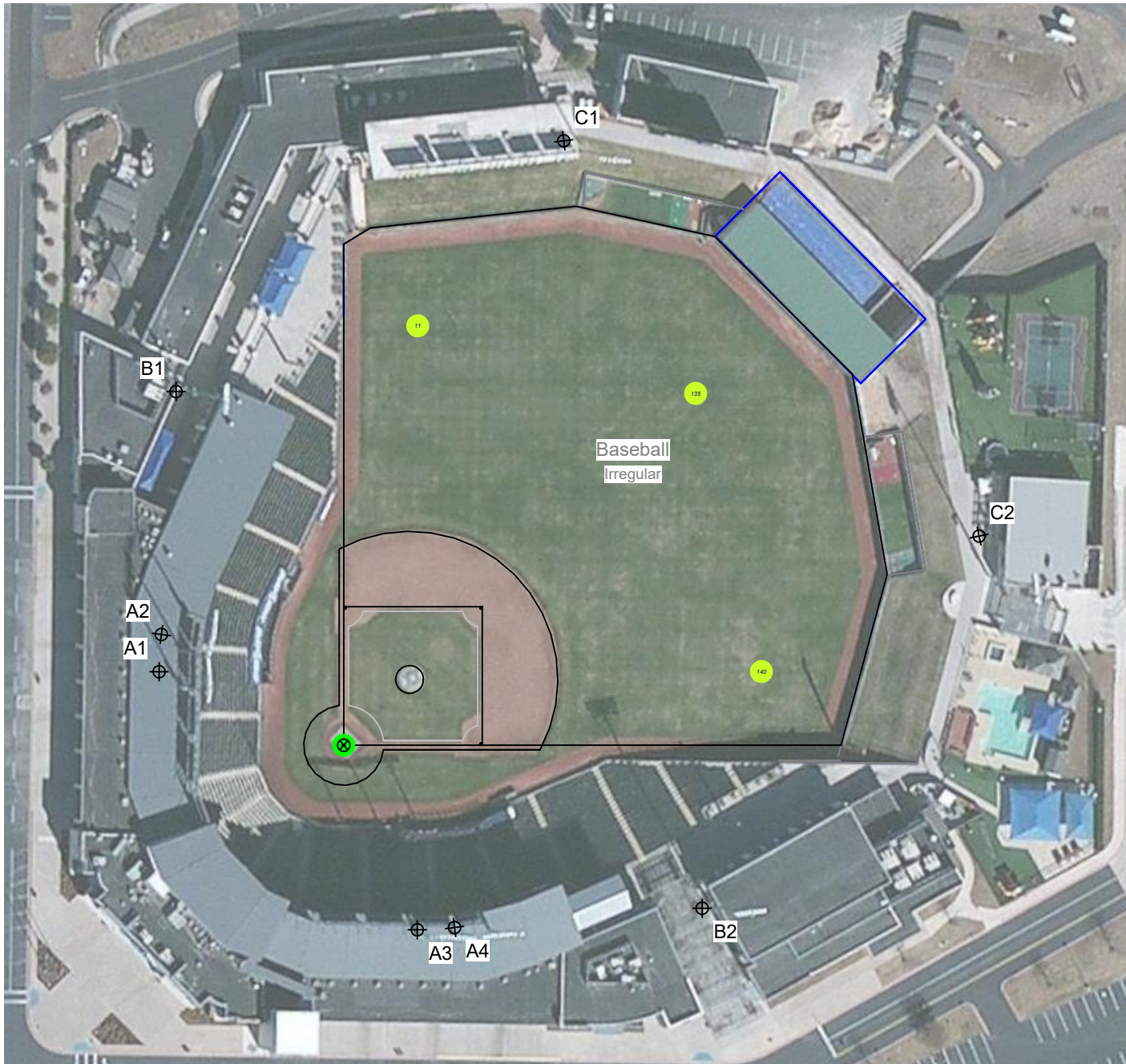
Electrical System Requirements: Refer to Amperage Draw Chart and/or the "Musco Control System Summary" for electrical sizing.

Installation Requirements: Results assume \pm 3% nominal voltage at line side of the driver and structures located within 3 feet (1m) of design locations.



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ILLUMINATION SUMMARY



Round Rock AAA Baseball

Round Rock, TX

EQUIPMENT LAYOUT

INCLUDES:

- Baseball
- LF Bullpen
- RF Bullpen

Electrical System Requirements: Refer to Amperage Draw Chart and/or the "Musco Control System Summary" for electrical sizing.

Installation Requirements: Results assume $\pm 3\%$ nominal voltage at line side of the driver and structures located within 3 feet (1m) of design locations.

EQUIPMENT LIST FOR AREAS SHOWN

Pole				Luminaires		
QTY	LOCATION	SIZE	GRADE ELEVATION	MOUNTING HEIGHT	LUMINAIRE TYPE	QTY / POLE
2	A1, A3	50'	46'	47'	TLC-LED-1150	1
				96'	TLC-LED-1150	12
2	A2, A4	50'	46'	47'	TLC-LED-1150	1
				96'	TLC-LED-1150	14
1	B1	100'	16'	41'	TLC-LED-1150	3
				116'	TLC-LED-1150	25
1	B2	100'	16'	46'	TLC-LED-1150	3
				116'	TLC-LED-1150	25
2	C1-C2	100'	16'	36'	TLC-LED-1150	3
				116'	TLC-LED-1150	17
8	TOTALS					152

SINGLE LUMINAIRE AMPERAGE DRAW CHART

Ballast Specifications (.90 min power factor)	Line Amperage Per Luminaire (max draw)						
Single Phase Voltage	208 (60)	220 (60)	240 (60)	277 (60)	347 (60)	380 (60)	480 (60)
TLC-LED-1150	7.0	6.6	6.1	5.2	4.2	3.8	3.0

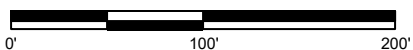


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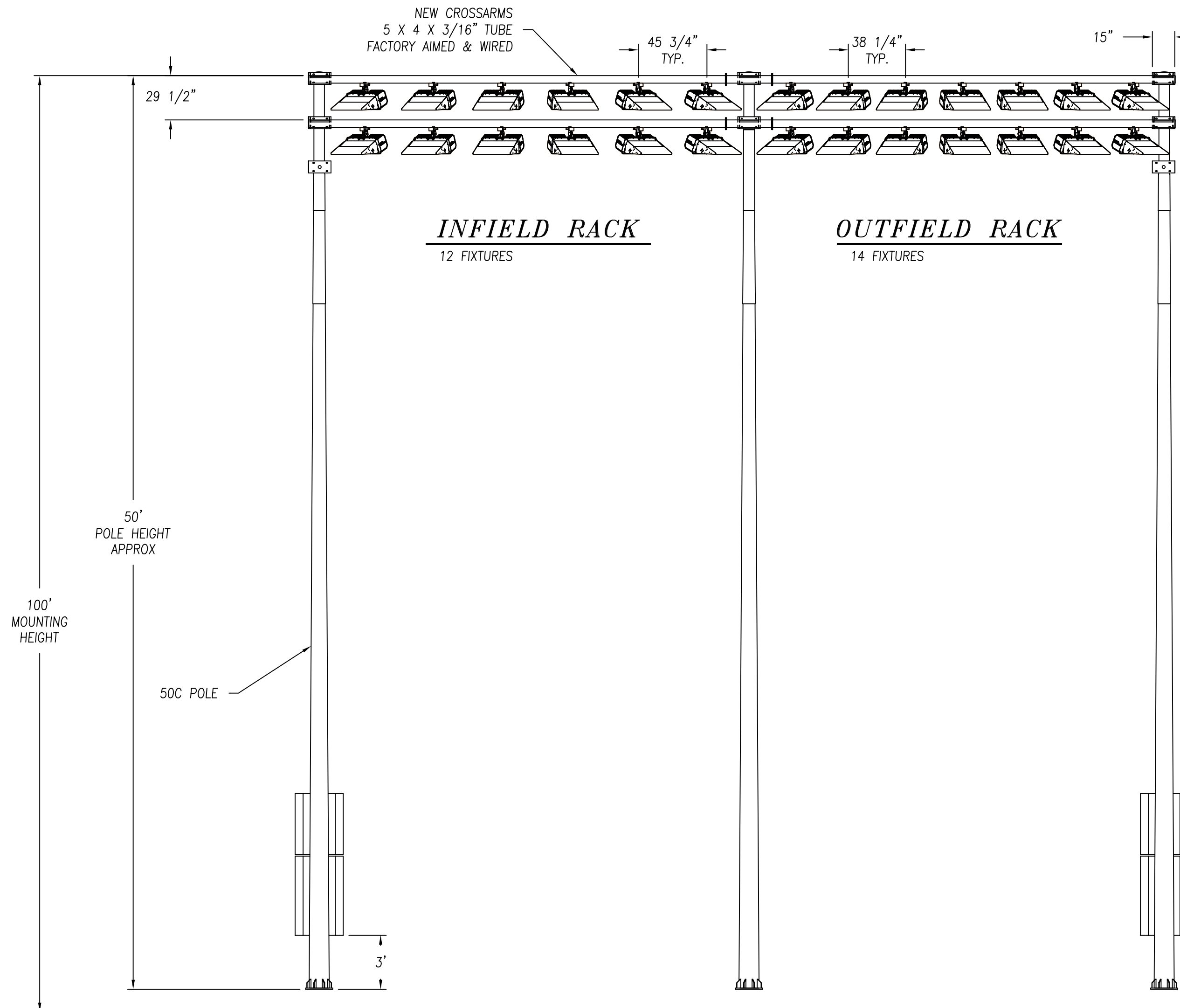
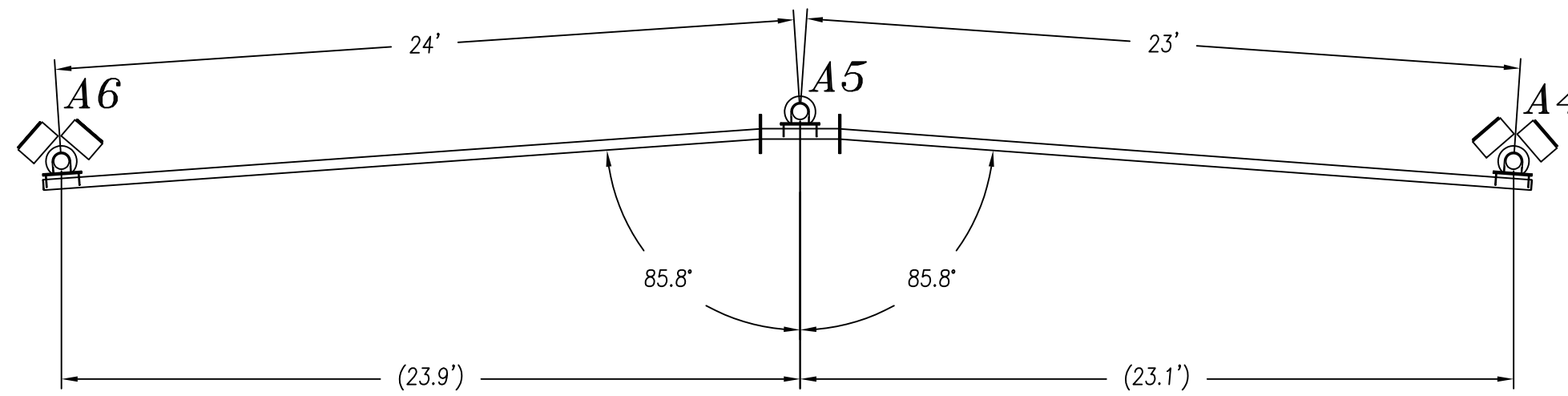


SCALE IN FEET 1 : 100



Pole location(s) ⊕ dimensions are relative to 0,0 reference point(s) ⊗

ITEM C



Round Rock AAA MiLB Retrofit
Round Rock, TX
Preliminary Pole Configuration

CORPORATE OFFICE:
P.O. Box 808
100 1st Avenue West
Oskaloosa, Iowa 52577
800/825-6020

MUSCO
Lighting

DATE:	BY: R.L.	REVISIONS:
17AUG17	DC A	UPDATE FIXTURE QTY

JOB NUMBER:
133480

DRAWN BY:
D.Guler

CHECK BY:

REPRESENTATIVE:

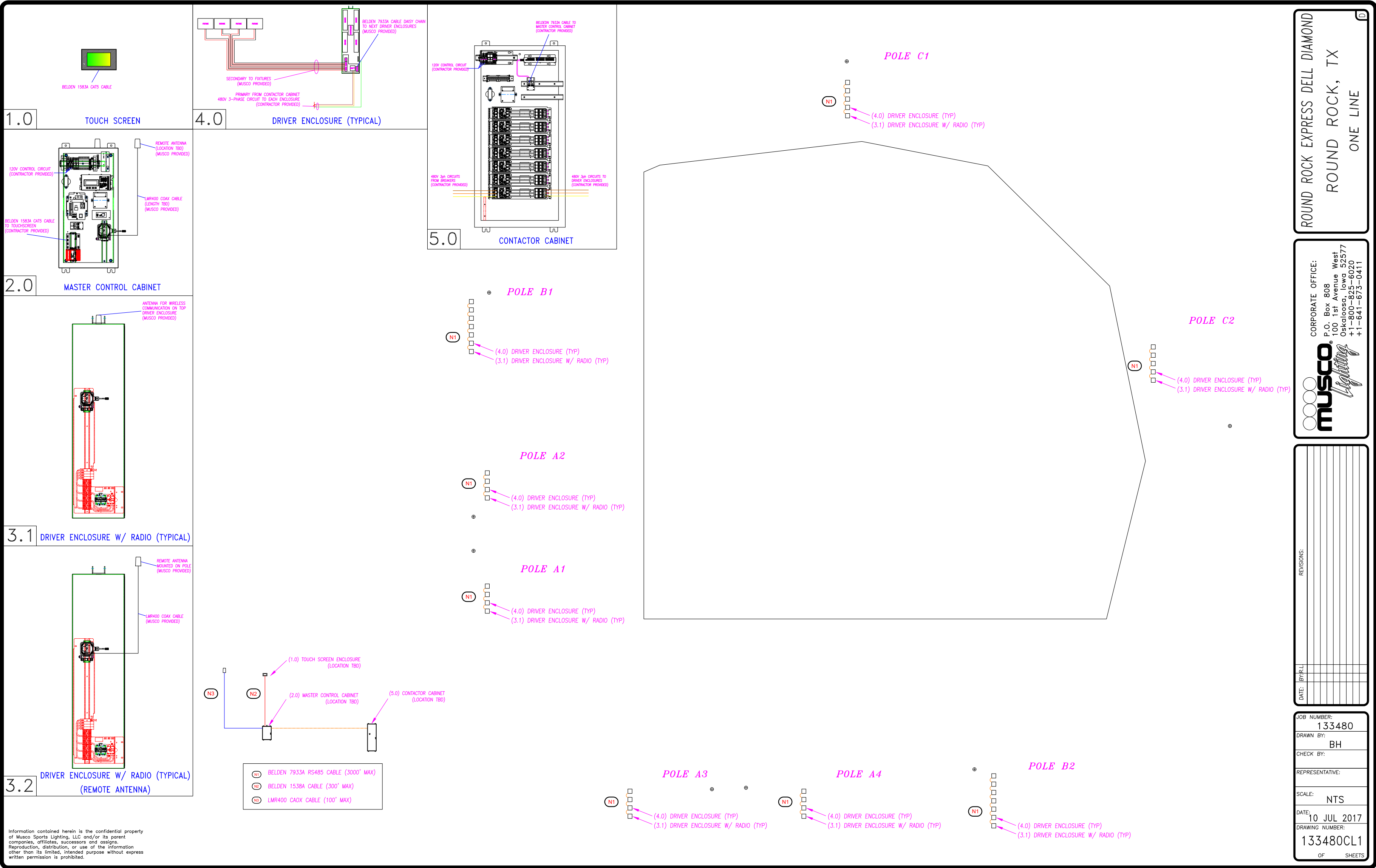
SCALE:
1:60

DATE:
06JUL17

DRAWING NUMBER:
133480X2

1 OF 1 SHEETS

ITEM D



ITEM E



25-Year Warranty

Round Rock Express Dell Diamond LED MiLB LED Lighting System

Warranty start date: ***Date of Shipment***
Luminaires Covered: ***(152) TLC-LED-1150***

For the next 25 years, Musco Sports Lighting, LLC ("Musco") will provide all materials and labor to maintain the operation of your lighting system.

Equipment

Musco warrants your lighting system to be free from defects in materials and workmanship for a period of 25 years starting from date of product shipment. Musco agrees to provide labor and materials to replace defective parts or repair defects in workmanship. This includes all Musco manufactured product (such as wire harnesses, drivers, luminaires, poles, concrete bases). Individual outages that occur during the warranty period are repaired when the usage of any field is materially impacted.

Alignment

Musco warrants accurate alignment of the luminaires on the luminaire assembly for a period of 25 years starting from date of product shipment.

Light Levels

Musco warrants the light levels will not fall below the specified illuminance value for each field for a period of 25 years starting from date of product shipment.

Availability of Service

Musco Warranty Department is available from 8:00 AM to 5:00 PM Central time, Monday through Friday. Musco call center operators are available 24 hours a day, 7 days a week and can be contacted in the event of an emergency and to aid in troubleshooting. Musco will exercise all reasonable efforts to perform service under this contract, but will not be responsible for delays beyond its control. Customer agrees to provide reasonable access for crane or man lift equipment to service the lighting system. Musco is not responsible for damage from operating equipment on the site when the equipment is operated in the prescribed manner over a designated route.

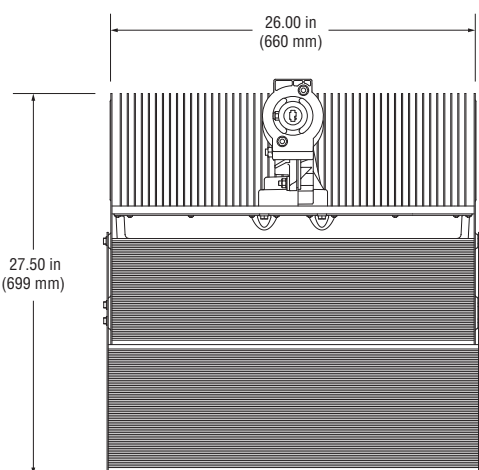
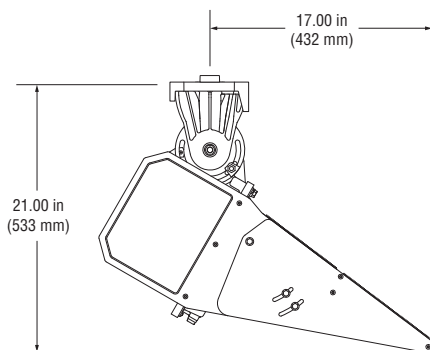
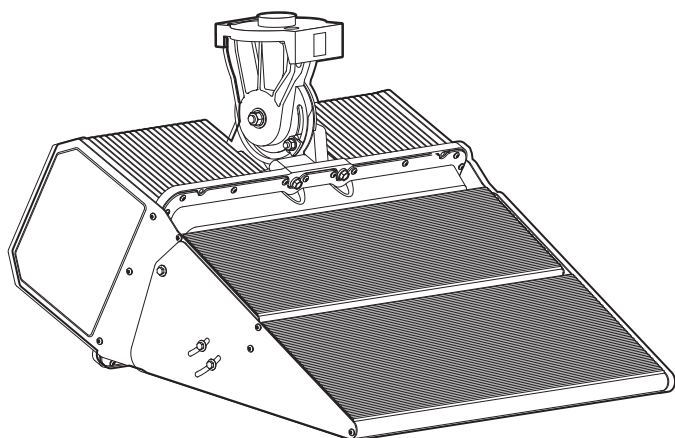
Service Limitations

This contract does not cover weather condition events such as lightning or hail damage, improper installation, vandalism or abuse, unauthorized repairs or alterations, or product made by other manufacturers. Customer agrees to check and replace fuses as needed. Musco provides spare fuses in the lowest alpha-numeric numbered enclosure and will replenish spare fuses used.

Warranty Contact Information

Musco Sports Lighting, LLC
Warranty Department
100 1st Avenue West
PO Box 808
Oskaloosa, IA USA
Phone: +1 641 673 0411
Email: lighting@musco.com

ITEM F



Luminaire Data

Weight (luminaire)	75 lb (34 kg)
UL listing number	E338094
UL listed for USA / Canada	UL1598 CSA-C22.2 No.250.0
Ingress protection, luminaire	IP65
Material and finish	Aluminum, powder-coat painted
Wind speed rating (aiming only)	150 mi/h (67 m/s)

Photometric Characteristics

Projected lumen maintenance per IES TM-21-11

L90(8.5k)	>51,000 h
L80(8.5k)	>51,000 h
L70(8.5k)	51,000 h
CIE correlated color temperature	5700 K
Color Rendering Index (CRI), typical	75
Color Rendering Index (CRI), minimum	70
Lumens ¹	121,000

Footnotes:

1) Incorporates appropriate dirt depreciation factor for life of luminaire.

Driver Data

Electrical Data

Rated wattage¹

Per driver..... 1,150 W

Per luminaire..... 1,150 W

Number of luminaires per driver..... 1

Starting (inrush) current..... <40 A, 256 μ

Fuse rating..... 15 A

UL ambient temperature rating,
electrical components enclosure..... 50°C (122°F)

Ingress protection,
electrical components enclosure..... IP54

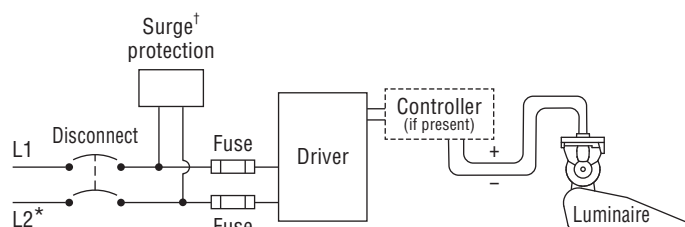
Efficiency..... 95%

Dimming mode..... optional

Range, energy consumption..... 15 – 100%

Range, light output..... 20 – 100%

Typical Wiring



* If L2 (com) is neutral then not switched or fused.

† Not present if indoor installation.

	200 Vac 50/60 Hz	208 Vac 60 Hz	220 Vac 50/60 Hz	230 Vac 50 Hz	240 Vac 50/60 Hz	277 Vac 60 Hz	347 Vac 60 Hz	380 Vac 50/60 Hz	400 Vac 50 Hz	415 Vac 50 Hz	480 Vac 60 Hz
Max operating current ²	7.26 A	6.98 A	6.60 A	6.31 A	6.05 A	5.24 A	4.18 A	3.82 A	3.63 A	3.50 A	3.03 A

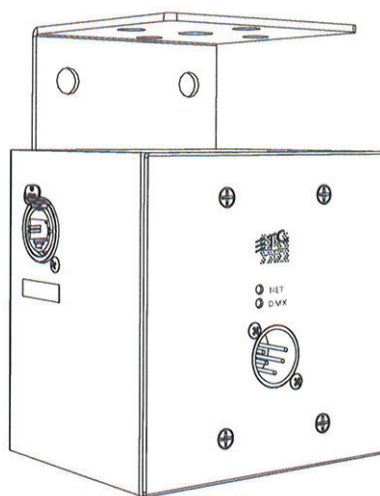
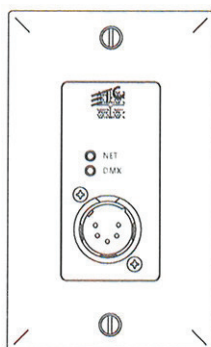
Footnotes:

- 1) Rated wattage is the power consumption, including driver efficiency losses, at stabilized operation in 25°C ambient temperature environment.
- 2) Operating current includes allowance for 0.90 minimum power factor, operating temperature, and LED light source manufacturing tolerances.

Notes

1. Use thermal magnetic HID-rated or D-curve circuit breakers.
2. See Musco Control System Summary for circuit information.





GENERAL INFORMATION

The Net3 One-Port Gateway provides network data distribution of data level information over a standard Ethernet Network. Built on the reliability and quality of ETC's Network development, Net3 gateways are built for the industry standard protocols and the proven ETCNet2™ and ETCNet™ protocols. The Gateway is an Ethernet native network device that uses bidirectional communication with other network devices to send and receive DMX512 as well as sACN, ETCNet2 or ETCNet data.

APPLICATIONS

- Churches
- High Schools
- Community Theatres
- University Theatres
- Convention Hall
- Tech Table
- Stage Manager Panels
- System Integration
- Ideal for venues and applications where single DMX ports are required with an Ethernet infrastructure

FEATURES

- One universe of distributed DMX over Ethernet
- Supports sACN protocol, part of the NET3 protocol suite
- Supports ETCNet2
- Supports ETCNet protocol
- One DMX input or output connection using 5-pin Male or Female XLR
- Distributes DMX data to any input/output device
- Power and Network status indicators
- Powered using Power over Ethernet (PoE)
- Compact single-gang size, uses Decora faceplate
- Configured using Network Configuration Editor (NCE) software utility

ORDERING INFORMATION

Net3 One-Port Gateway

MODEL	DESCRIPTION
N31G-F	Net3 One-Port DMX Output Gateway
N3T1G-F	Net3 One-Port DMX Output Touring Gateway
N31G-M	Net3 One-Port DMX Input Gateway
N3T1G-M	Net3 One-Port DMX Input Touring Gateway

Note: Touring gateways include back box with Ethercon connector and hanging bracket. Hanging hardware is available separately from ETC

Net3 One-Port Gateway Accessories

MODEL	DESCRIPTION
N31G-BB	Surface mount one-gang back box - 3.5" deep
UBOLT	U-Bolt Hardware Kit
400CC	C-Clamp Hardware Kit



SPECIFICATIONS

GENERAL

- Distributes DMX over Ethernet with any compatible input or output device
- RoHS Compliant (lead-free)
- CE compliant and ETL LISTED

FUNCTIONAL

- Supports Net3/ACN (ANSI E1.31 and E1.17)
- Supports ETCNet2 and ETCNet protocols
- USITT DMX512 and ANSI E1.11 DMX512-A compliant
- Compliant with IEEE 802.3i for 10BASE-T, 802.3u for 100BASE-TX and 802.3af for Power over Ethernet

MECHANICAL

- Finished in black fine-texture, scratch-resistant, powder coat
- Formed steel single-gang Decora style cover plate
- One integrated DMX input or output port
- Network and data activity LED indicators
 - Blue power indicators
 - Green network activity indicator
- RJ45 for connection to lighting network
- Flush mount using standard RACO 695 back box (by others)
- Surface mount back boxes available from ETC (4105A2002)
- Back box with Ethercon connector and hanging bracket a included with Touring version (hanging hardware available)

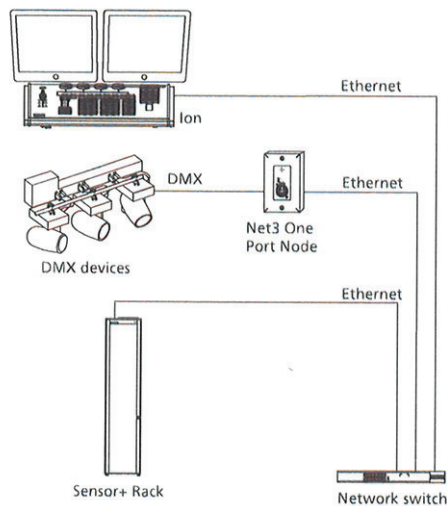
ENVIRONMENTAL

- Ambient operating temperature: 0° to 40°C (32° to 104°F)
- Operating humidity: 5% - 95% non-condensing
- Storage temperature: -40° to 70°C (-40° to 158°F)

POWER

- Supports IEEE802.3af Power over Ethernet

TYPICAL SYSTEM RISER



PHYSICAL

One-Port Gateway Dimensions

MODEL	HEIGHT		WIDTH		DEPTH	
	inches	mm	inches	mm	inches	mm
N31G	4.50	115	2.75	70	3.50	89
N3T1G*	6.34	161	4.50	115	3.50	89

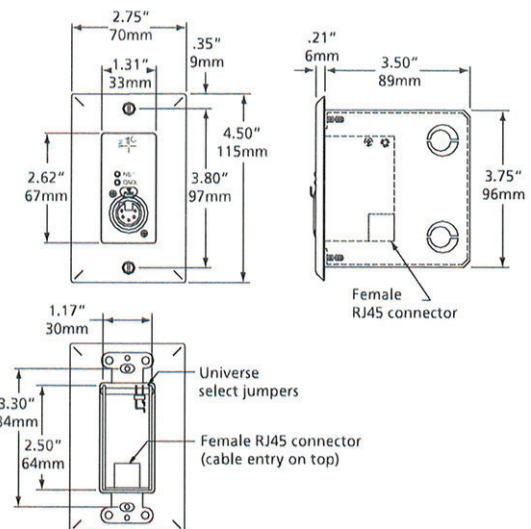
* Height without mounting hardware

One-Port Gateway Weights

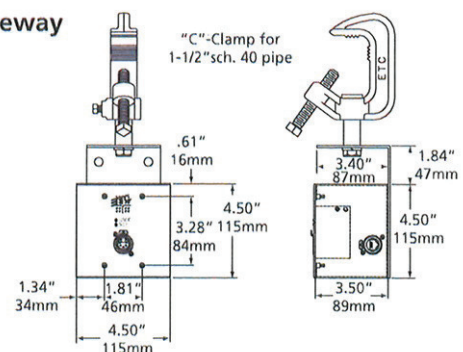
MODEL	WEIGHT		SHIPPING WEIGHT	
	lbs	kgs	lbs	kgs
N31G	.35	.16	1	.45
N3T1G*	2.5	1.1	3.2	1.5

* Weight without hanging hardware

One-Port Gateway



Touring Gateway



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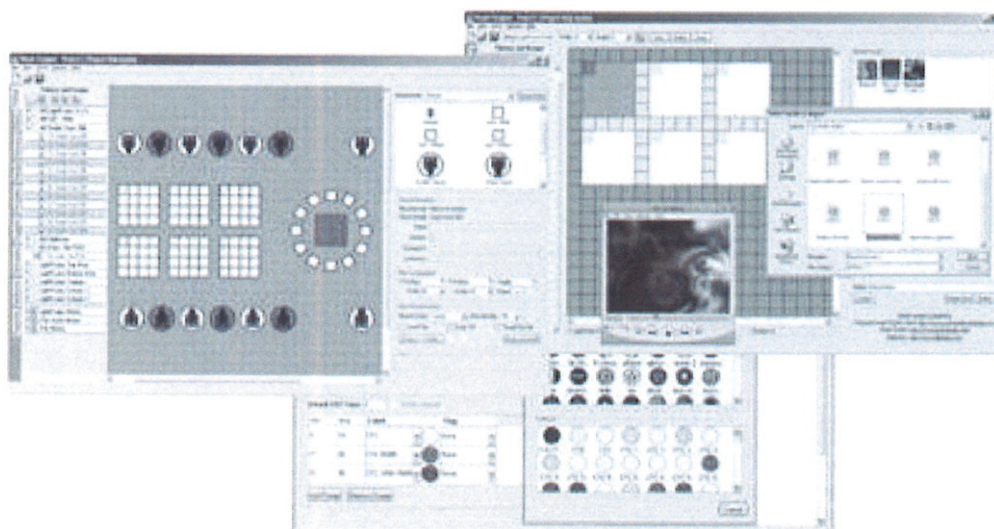
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GENERAL INFORMATION

Unison Mosaic Designer Software provides the framework for creating your unique work of art. Everything you need is here: from importing project plans for system layout, to positioning lighting fixtures and other devices in the plan, to editing triggers and timelines, picking specific colors, programming special effects, mapping pixels to an array, playing back video clips, visualizing the results, and uploading your show. With Mosaic -- you don't need a console. You already have one -- inside the Designer Software. You directly create a real show in real time using your Mac or PC. Even after uploading the show, you have all the features you'd need to influence and modify your design to be interactive with the outside world.

APPLICATIONS

- Integration and Show Control
- Building Facades
- Themed Architectural
- Casinos
- LED Lighting

MINIMUM COMPUTER REQUIREMENTS

WINDOWS

- 1 GHz Intel Pentium processor or better
- Microsoft Windows XP or Vista operating system
- 100 MB of available hard-disk space
- 256 MB of RAM
- Open GL Graphics Acceleration capable of 1024x768 resolution (1280x1024 or higher recommended)
- Ethernet or USB connection
- Keyboard and Mouse

MACINTOSH

- 1 GHz Intel Pentium or PowerPC processor or better
- Apple Macintosh OS-X 10.3.9 or later
- 100 MB of available hard-disk space
- 256 MB of RAM
- Open GL Graphics Acceleration capable of 1024x768 resolution (1280x1024 or higher recommended)
- Ethernet or USB connection
- Keyboard and Mouse

GENERAL INFORMATION

FEATURES

- DesignView - import images from your lighting design so that fixtures and other elements reflect the project plans
- FixtureManager - complete fixture library provides drag-and-drop access to your LEDs, moving lights, and other devices
- TimeSlice - Program each element of your design using visual, timeline-based blocks
- ColorPick - powerful color selector to set hue, saturation and intensity or CMY color mixing
- EasyFX - bring out the artistry of your design with a comprehensive range of customizable special effects. Moving lights have their own dedicated programming interface to avoid complicating the primary intensity and color controls
- PixelMap - go beyond traditional lighting effects allowing you to define a group of fixtures as a virtual screen and then play back static or video images. Use this as true video playback across an LED array, replacing the need for separate lighting control and video pixel-mapping systems
- TriggerManager - link your timelines to the outside world by allowing specific timelines to be linked to external inputs or timed events. Place conditions on these triggers so that an event will only occur if a series of requirements are met
- ControlView - transform your design elements into a simulation environment to view your project before installation, including the ability to test triggers and programming
- LiveControl - live output of your Mosaic show file to connected Mosaic Controllers and fixtures during simulation
- RealEngine - ensures an accurate representation of your show whether in software simulation or when played live to connected controllers



SPECIFICATIONS

SYSTEM CONFIGURATION

- The application interface shall be based around a tree-view, a workspace area, and item selector
- There shall be a 2-dimensional plan view that displays the layout of the project
- It shall be possible to represent data about the workspace area graphically (plan) or in tabular form
- Items displayed on the plan may be arranged using drag-and-drop interaction
- It shall be possible to import images as a background image to the plan view
- Plan views shall support zoom
- Plan views shall support a layout grid with user-defined spacing and color with associated snap-to-grid functionality
- There shall be an auto-backup feature
- It shall be possible to add Zones and Fixtures by selecting a Zone or Fixture Template from the provided library and create custom Zones or Fixtures
- It shall be possible to create a fixture layout based on data imported from a defined documentation format

CHANNEL CONFIGURATION

- There shall be functionality to patch Channels to DMX and/or Ethernet Protocols including ETCNet2, Philips KiNET, Pathway XDMX and ARTNET.
- There shall be support for Channels with split patches
- It shall be possible to swap pan and tilt axes for a moving-light Fixture
- It shall be possible to invert pan and tilt axes for a moving-light Fixture
- It shall be possible to specify a minimum and maximum value for an Attribute
- It shall be possible to specify a default value for an Attribute

DESIGN AND SIMULATION

- There shall be control of LED arrays supporting pixel mapping of static or video media in any Apple® QuickTime® supported file format.
- There shall be control of moving lights
- There shall be independent control of every Attribute of a Channel
- It shall be possible to create Groups as a selection shortcut
- The plan shall show simulation feedback for Channels in a graphical form
- It shall be possible to simulate control events
- The simulation may be linked to the actual online System to synchronize playback and inject control events

Note: For a list of QuickTime supported file formats visit:

<http://www.apple.com/quicktime/player/specs.html>

SPECIFICATIONS

TIMELINES

- Timelines may be displayed and modified in linear form
- Timelines may be set on an individual Attribute basis
- All Timelines may include split timing
- Timelines shall be applied based on priority
- It shall be possible for all Timelines to include Effects
- The end state of a timeline shall be user configurable

TRIGGERS

- It shall be possible to trigger actions using external triggers or internal events
- It shall be possible to set conditions for each trigger
- It shall be possible to specify timed events, including repeat intervals such as daily, weekly, etc.
- It shall be possible to specify astronomical timed events
- Serial input data shall be treated as a trigger and shall be handled as a standard or custom action

ACTIONS

- There shall be a standard Actions for starting, stopping, pausing and resuming timelines
- There shall be a standard Action to set timeline intensity
- There shall be standard Actions to set timeline position
- There shall be standard Actions for setting fixture color
- There shall be standard Actions for working with external triggers connected to Expansion Modules
- It shall be possible to initiate custom scripts as actions

NETWORK

- Shall report online status of Mosaic Show Controllers
- Shall allow for configuration of network properties (IP) of Mosaic Show Controllers
- Shall allow for upload and download of configuration data from Mosaic Show Controller
- Shall allow for download of logging data from Mosaic Show Controller
- Shall allow for discovery of connected Mosaic Show Controllers
- Shall support an integrated web server for remote connectivity and control of programmed timelines

REPORTS

- It shall be possible to generate tabular reports and customize their layout and appearance
- It shall be possible to print reports



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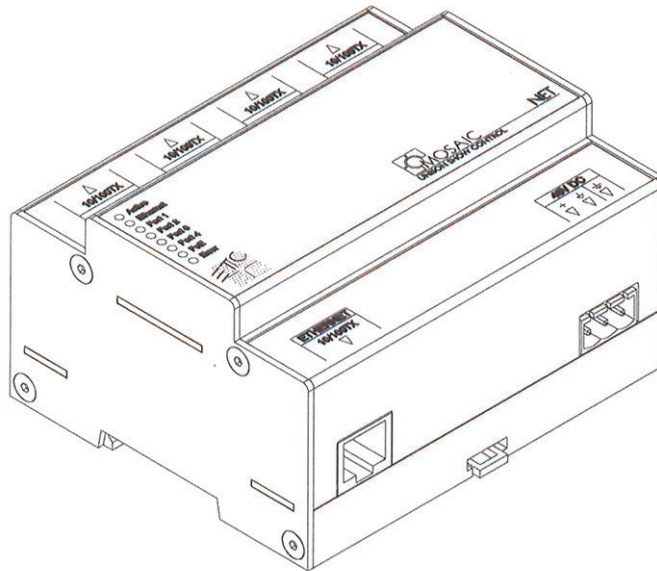
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GENERAL INFORMATION

The Mosaic Ethernet Switch (MSC-NET) allows for multiple Mosaic Controllers or Accessories to be network together. The MSC-NET offers five unmanaged Ethernet ports, with four ports also providing Power over Ethernet (PoE). The DIN-rail mounted switch is the perfect accessory for any Mosaic Show Control System

APPLICATIONS

- Mosaic systems that require network connections
- Systems that use PoE to power controllers or accessories

FEATURES

- Five-port, unmanaged Ethernet switch with four PoE ports
- RJ45 sockets for 10/100Base-TX Ethernet (802.3af compliant)
- Supports sACN, Art-Net, KiNet and other Ethernet protocols
- Low voltage power input
- DIN-rail mount enclosure

GENERAL

- Ambient operating temperature: 0-50°C / 32-122°F
- ETL/cETL Listed
- CE Compliant

ORDERING INFORMATION

Unison Mosaic Ethernet Switch

MODEL	DESCRIPTION
MSC-NET	Mosaic 5-port Ethernet Switch with PoE

Compatible Unison Mosaic Show Controllers

MODEL	DESCRIPTION
MTPC	Unison Mosaic Tessera Panel Controller
MSC1	Unison Mosaic 512 Channel Show Controller
MSC2	Unison Mosaic 1024 Channel Show Controller
MSC4	Unison Mosaic 2048 Channel Show Controller
MSCX	Unison Mosaic Show Controller with 10240 to 102400 Channels
AVC	Unison Mosaic Audio/Video Controller

Compatible Unison Mosaic Accessories

MODEL	DESCRIPTION
M108	Mosaic 1-gang, 8-button station
MRIO-A	Mosaic Remote Audio/Timecode Device
MRIO08	Mosaic Remote I/O Device with 8 Inputs
MRIO44	Mosaic Remote I/O Device with 4 Inputs Outputs
MRIO80	Mosaic Remote I/O Device with 8 Outputs
MSC-OPTO	Unison Mosaic 4-port DMX/RDM Opto-Splitter



SPECIFICATIONS

GENERAL

- No configuration required
- Standard Ethernet connections using RJ45 connectors

MECHANICAL

- 6 unit wide DIN Enclosure
- Mounting complies with DIN43880 and EN60715 (35/7.5 rail)
- All connections use standard pluggable connectors

ELECTRICAL

- Five 10/100Base-TX Ethernet ports using RJ45 connection
- Four ports provide Power over Ethernet (IEEE 802.3af)
- PoE device detection and classification (Class 0 to Class 4)
- Provides up to 30W total power for PoE Devices
- Auto detection for full or half duplex operation
- Auto speed detection per port (10/100Base-TX)
- Supports auto detection of cable type for uplink
- Individual indicators for port activity
- Independent isolation per port
- 48VDC power input
- ETL and cETL Listed, CE compliant

THERMAL

- Ambient temperature: 0-50°C / 32-122°F

PHYSICAL

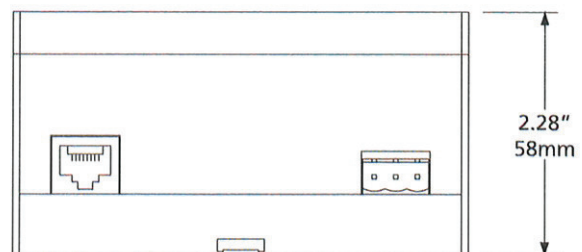
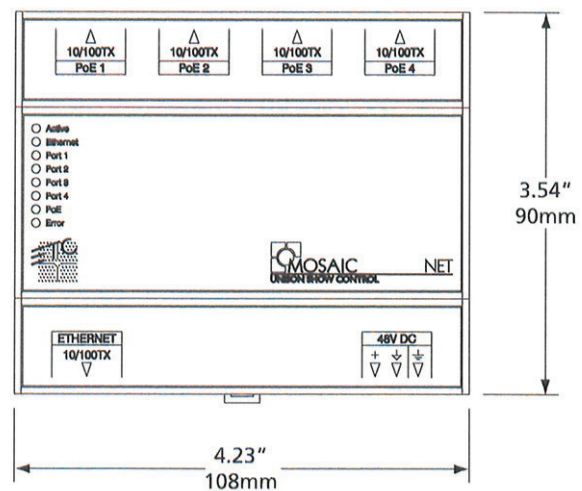
MSC-NET Dimensions*

MODEL	HEIGHT		WIDTH		DEPTH	
	inches	mm	inches	mm	inches	mm
MSC-NET	3.54	90	4.23	108	2.28	58

MSC-NET Weights*

MODEL	WEIGHT		SHIPPING WEIGHT	
	lbs	kgs	lbs	kgs
MSC-NET	0.79	0.36	1.68	0.76

*Weights and dimensions typical



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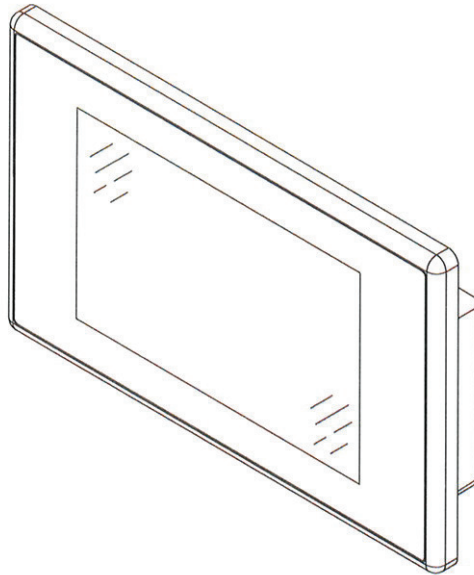
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GENERAL INFORMATION

The Unison Mosaic Tessera Panel Controllers (MTPCs) are the permanent part of your installation. The Mosaic Tessera Controller provides a touchscreen user-interface with up to 512 channels of DMX-Over-Ethernet (and other Ethernet based protocols) to control color-mixing fixtures, conventional dimmable fixtures and automated lights.

The built-in real-time clock triggers precise timed events, including 'sunrise' and 'sunset' astronomical cues. Each MTPC supports onboard triggering over Ethernet and user input at the touchscreen. Additional channels and triggering interfaces are supported by optional MSC controllers and Remote Devices attached over an Ethernet network.

APPLICATIONS

- LED Lighting Control
- Pixel mapping
- Show Control and Lighting Integration

FEATURES

- Integrated Show Control and User Interface
- Programmed and Configured using Mosaic Designer Software
- Configurable user-interface using Mosaic Touch Editor Software
- RealEngine – ensures an accurate representation of your show – whether in software simulation or when played live to connected controllers
- LiveControl – Live output of your Mosaic show file to connected Mosaic Controllers and fixtures during simulation
- DesignerAccess – Internal Web server with active pages providing status, configuration information, remote monitoring, and remote show uploads
- QuickChange – Show data is stored on a removable flash memory card, which can be transferred to another MTPC if required

GENERAL

- ETL/cETL Listed
- CE Compliant

ORDERING INFORMATION

Unison Mosaic Show Controllers

MODEL	DESCRIPTION
MTPC-__	Unison Mosaic Tessera Panel Controller

Enter station color code in __ space provided:

- 1 = Cream Bezel and Overlay
- 5 = White Bezel and Overlay
- 6 = Chrome Bezel and Black Overlay

Compatible Unison Mosaic Show Controllers

MODEL	DESCRIPTION
MSC	Unison Mosaic Show Controller
MSCX	Unison Mosaic High Capacity Show Controller

Unison Mosaic Remote Devices and Accessories

MODEL	DESCRIPTION
MRIO-A	Mosaic Remote Audio/Timecode Device
MRIO-D	Mosaic Remote DALI
MRIO80	Mosaic Remote I/O Device with 8 Inputs
MRIO44	Mosaic Remote I/O Device with 4 In and 4 Out
MRIO08	Mosaic Remote I/O Device with 8 Outputs
MSC-NET	5-port Ethernet Switch w/ PoE

Unison Mosaic Button Stations

MODEL	DESCRIPTION
M108-__	1-gang, 8-Button Station



SPECIFICATIONS

GENERAL

- Touchscreen controller with user customizable interface
 - 4.3" capacitive touch display
 - 480 x 272 resolution, 24-bit color
- 512 channel Ethernet based control output
- Support for sACN, KiNet, Pathport, or Art-Net output
- Integrated real and astronomical time clock
- Triggering and show control integration using Remote Devices and MSC controllers connected over an Ethernet network
- Integrated web server for remote management
- Programmed and configured using Unison Mosaic Designer Software
- User Interface configured using Mosaic Touch Editor Software
- Simple integration with other Mosaic devices for large systems including MSC X and Audio Video Controller (AVC)
- Solid State, high reliability components

FUNCTIONAL

- Scalable up to 40 Mosaic Show Controllers or Mosaic Tessera Panel controllers using standard Ethernet networking
- Project data stored in non-volatile, solid-state memory
- Resumes output automatically upon receiving power
- Supports conditional logic and scripting for powerful integration
- Software and configuration upload using Ethernet
- Integrated web server provides with active monitoring and remote triggering using Ethernet
- Remote management and upload of configuration using RemoteManager software application

MECHANICAL

- Flush (-FBB) or surface (-SBB) mount using provided backbox
- No visible means of attachment
- Metal faceplate with magnetic overlay
- Integrated learning IR receiver compatible with 3rd party remotes
- Integrated light, proximity and temperature sensors support system-wide feedback
- Removable SD memory card for configuration and data storage
- All connections use standard pluggable connectors

ELECTRICAL

- PoE power input (IEEE 802.3af), 4 watt consumption
- 10/100Base-TX Ethernet using RJ45 connection
- ETL and cETL Listed, CE compliant

THERMAL

- Ambient temperature: 0-50°C / 32-122°F

PHYSICAL

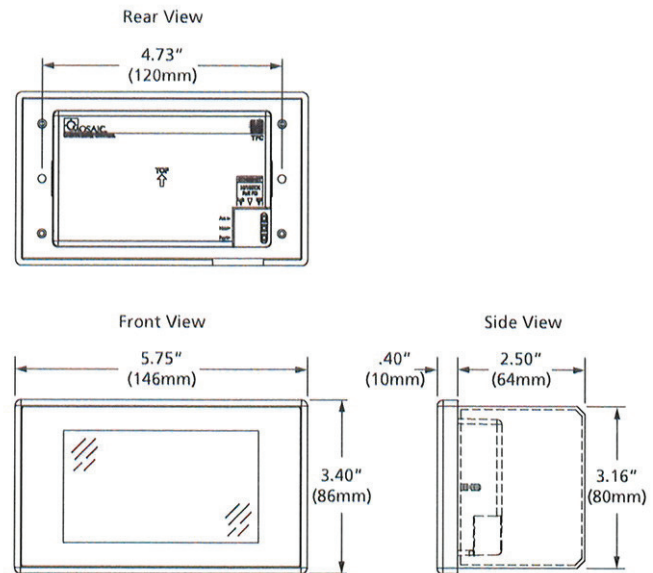
Unison Mosaic Show Controller Dimensions*

MODEL	HEIGHT		WIDTH		DEPTH	
	inches	mm	inches	mm	inches	mm
MTPC	3.35	85	5.75	146	0.40	10
-FBB	3.00	76	5.35	136	2.50	64
-SBB	3.35	85	5.75	146	2.50	64

Unison Mosaic Show Controller Weights*

MODEL	WEIGHT		SHIPPING WEIGHT	
	lbs	kgs	lbs	kgs
MTPC	0.53	0.24	0.93	0.42

*Weights and dimensions typical



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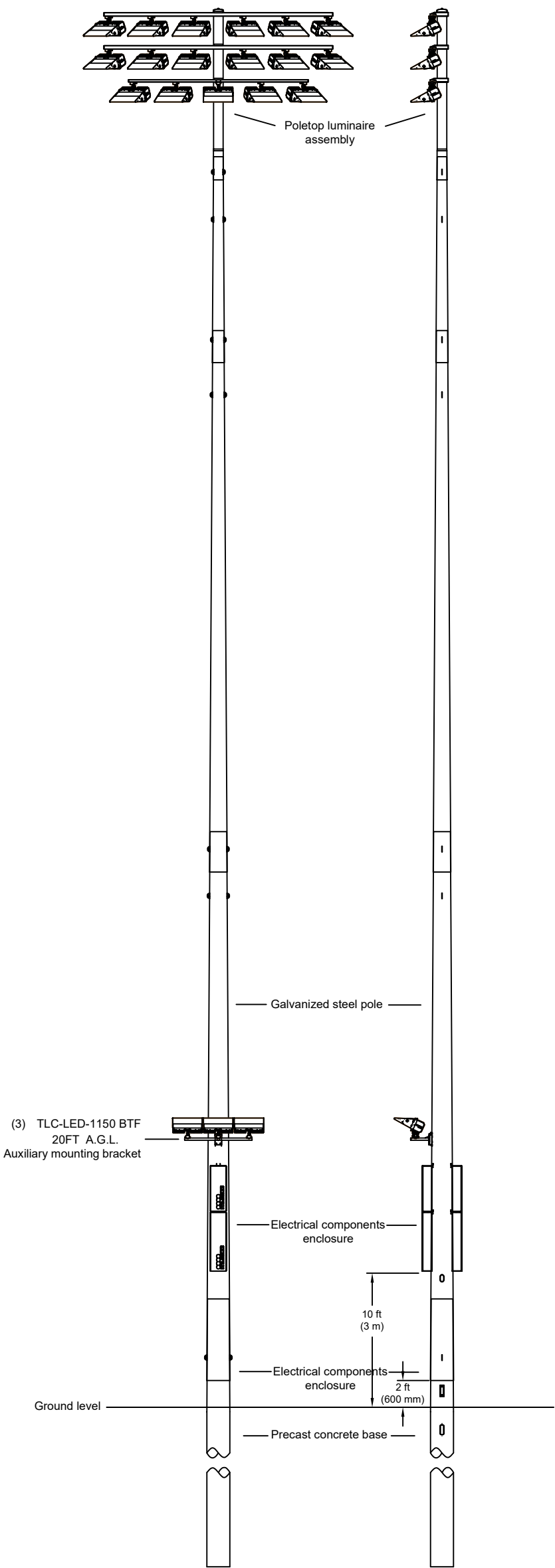
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Protected by one or more of the following U.S. Patent Numbers 6,016,038, 6,150,774, 6,166,496, 6,211,626, 6,292,901, 6,340,868, 6,459,219, 6,528,954, 6,548,967, 6,577,080, 6,605,453, 6,624,597, 6,636,003, 6,717,376, 6,720,745, 6,774,584, 6,777,591, 6,781,329, 6,788,011, 6,801,003, 6,806,659, 6,869,204, 6,883,929, 6,888,322, 6,897,624, 6,936,978, 6,965,205, 6,967,448, 6,969,954, 6,975,079, 7,014,336, 7,031,920, 7,038,398, 7,038,399, 7,042,172, 7,064,498, 7,113,541, 7,132,635, 7,132,785, 7,132,804, 7,135,824, 7,139,617, 7,268,190, 7,231,060, Canadian Patent: CA 2,302,227, Hong Kong Patent: HK 1025416, Australian Patents: AU 757200, AU 200320358-1, European Patents: EP 1 016 062 B1, EP 1 224 845 B1, EP 1 234 140 B1, DE 698 07 092 C0, DE 600 21 911 C0, DE 600 23 730 C0

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POLE(S): C1,C2
Musco 100FT Light-Structure System™ pole
TLC for LED™ luminaires
(17) TLC-LED-1150
The C Poles have 16FT Elevation.

PROJECT NUMBER: 133480	DATE: 08/14/2017	SCALE: NTS	DRAWN BY: N.HERZ
133480P2			
1 OF 1 SHEETS			

DATE:	BY:	R.L.	REVISIONS:



CORPORATE OFFICE:
P.O. Box 808
100 1st Avenue West
Oskaloosa, Iowa 52577
+1-800-825-6020
+1-641-673-0411

Round Rock AAA Baseball
Round Rock, TX
Pole Configuration Drawing

B

ITEM G

Musco Lighting shall deliver equipment to the job site 6-8 weeks after submittal approval.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Musco Sports Lighting, LLC
Oskaloosa, IA United States

Certificate Number:
2017-280585

Date Filed:

11/06/2017

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Round Rock, TX

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

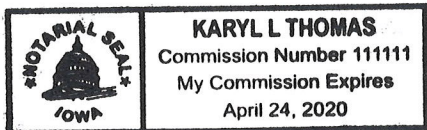
Round Rock Express Diamond
Sports lighting equipment

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Musco Corporation	Oskaloosa, IA United States	X	

5 Check only if there is NO Interested Party. ☐

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



Signature of authorized agent of contracting business entity
James M. Hansen, Secretary

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said James M. Hansen, this the 6th day of November, 2017, to certify which, witness my hand and seal of office.

Signature of officer administering oath

Karyl L. Thomas
Printed name of officer administering oath

Notary Public
Title of officer administering oath



City of Round Rock

Agenda Item Summary

Agenda Number: F.3

Title: Consider a resolution authorizing the Mayor to execute Supplemental Contract No. 1 with Lockwood, Andrews & Newnam, Inc. for the Oak Bluff/Greenfield Drainage Improvements Project.

Type: Resolution

Governing Body: City Council

Agenda Date: 11/21/2017

Dept Director: Michael Thane, Utilities and Environmental Services Director

Cost: \$98,224.00

Indexes: 2014 Drainage Revenue Bonds

Attachments: Resolution, Exhibit A, Form 1295, Map

Department: Utilities and Environmental Services

Text of Legislative File 2017-4959

The City experienced flooding in the Oak Bluff Estates neighborhood in 2013 and 2015; and the County has experienced similar flood issues in the abutting Greenfield neighborhood. The City and Williamson County executed an Interlocal Agreement (ILA) April 28, 2016 to fund engineering and surveying services to identify, analyze, and design improvements that, if constructed, would reduce flooding frequency in the neighborhoods. Pursuant to the ILA, the City retained Lockwood, Andrews & Newnam, Inc. (LAN) at a cost of \$80,295 to perform the aforementioned services. The City has not yet authorized LAN to perform final design, and a balance of approximately \$35,000 remains under the original contract.

The City has recently approached Williamson County to determine if the County desires to enter into a second ILA to partner with the City to construct improvements; the City is prepared to move forward with design and construction to serve Oak Bluff Estates but believes the County should participate in improvements specifically serving Greenfield. The County has indicated a desire to participate in the construction up to some level; and it is anticipated that an ILA regarding such participation will be forthcoming for consideration by the City Council.

As work under the original contract progressed, it became clear that analyzing the existing drainage network and solution alternatives was more complex than anticipated. Due to the complex nature, and the City and/or County at times seeking more detailed information from LAN in order to make decisions regarding design, LAN was unable to fully finalize and document the specifics of the improvements; and, it became clear that geotechnical and

structural engineering services may be necessary, and additional surveying will be necessary for the final design. This Supplemental Contract No. 1 will provide for finalization of analysis, routing, and extent of the improvements to be designed, and additional surveying, geotechnical and structural engineering services as required. This Supplemental Contract No. 1 will increase the maximum payable under the contract by \$98,224, for a total of \$178,519; City Staff recommends approval.

Cost: \$98,224

Source of Funds: 2014 Drainage Revenue Bonds

RESOLUTION NO. R-2017-4959

WHEREAS, the City of Round Rock has previously entered into a Contract for Engineering Services (“Contract”) with Lockwood, Andrews & Newnam, Inc. for the Oak Bluff/Greenfield Drainage Improvements Project, and

WHEREAS, Lockwood, Andrews & Newnam, Inc. has submitted Supplemental Contract No. 1 to the Contract to modify the provisions for the scope of services, and

WHEREAS, the City Council desires to enter into said Supplemental Contract No. 1 with Lockwood, Andrews & Newnam, Inc., Now Therefore

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ROUND ROCK, TEXAS,

That the Mayor is hereby authorized and directed to execute on behalf of the City Supplemental Contract No. 1 to the Contract with Lockwood, Andrews & Newnam, Inc., a copy of same being attached hereto as Exhibit “A” and incorporated herein for all purposes.

The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

RESOLVED this 21st day of November, 2017.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk

EXHIBIT
"A"

§

 \mathcal{S}

§

SUPPLEMENTAL CONTRACT NO. 1

ADDRESS: 8911 N. Capital of Texas Hwy, Building 2, Suite 2300, Austin, TX 78759

PROJECT: Oak Bluff/Greenfield Drainage Improvements

This Supplemental Contract No. 1 to Contract for Engineering Services is made by and between the City of Round Rock, Texas, hereinafter called the “City” and Lockwood, Andrews & Newnam, Inc., hereinafter called the “Engineer”.

WHEREAS, the City and Engineer executed a Contract for Engineering Services, hereinafter called the “Contract”, on the 28th day of April, 2016 for the Oak Bluff/Greenfield Drainage Improvements Project in the amount of \$80,295.00; and

WHEREAS, it has become necessary to amend the Contract to modify the provisions for the scope of services and to increase the compensation by \$98,224.00 to a total of \$178,519.00;

NOW THEREFORE, premises considered, the City and the Engineer agree that said Contract is amended as follows:

I.

Article 2, Engineering Services and Exhibit B, Engineering Services shall be amended as set forth in the attached Addendum to Exhibit B. Exhibit C, Work Schedule shall be amended as set forth in the attached Addendum to Exhibit C.

II.

Article 4, Compensation and Exhibit D, Fee Schedule shall be amended by increasing by \$98,224.00 the maximum amount payable under the Contract for a total of \$178,519.00, as shown by the attached Addendum to Exhibit D.

IN WITNESS WHEREOF, the City and the Engineer have executed this Supplemental Contract in duplicate.

[signature pages follow]

LOCKWOOD, ANDREWS & NEWNAM, INC.

By: _____

Date

CITY OF ROUND ROCK

APPROVED AS TO FORM:

By: _____
Craig Morgan, Mayor

Stephan L. Sheets, City Attorney

Date

ADDENDUM TO EXHIBIT B Engineering Services

1. PROJECT DESCRIPTION

The scope herein is to describe additional services for the Contract necessary to refine the alignment, details and extent of proposed improvements based on cost constraints and existing and new data, to refine analyses, and, to modify the criteria for construction documents and bidding services in the Contract. The scope herein also identifies subconsultant services that are anticipated to be required as part of the additional services. Except as modified by the following Scope of Work herein below, the services shown in Exhibit B of the Contract shall remain a part of all services to be provided under the Contract.

2. SCOPE OF WORK

The scope of work for additional services under this Addendum to Exhibit B includes but is not limited to the following tasks:

- Task 1: Alignments and Final Route Selection
- Task 2: Hydraulic Modeling and Inundation Mapping
- Task 3: Construction Plans and Bidding

2.1 Work Breakdown Structure Tasks and Description

2.1.1 Task 1: Alignments and Final Route Selection

In consultation and cooperation with the City, the Engineer will review utilities, trees, available rights of way, easements and previous drainage analyses in order to maximize improvements and finalize the alignments/routes for the proposed improvements to be incorporated into the Construction Plans in Task 3 below. This task will include but not be limited to the services below:

1. Supplemental field survey of areas not previously covered;
2. Review existing easements and make recommendations regarding necessary easements;
3. Finalize horizontal alignment of proposed pipe to serve Oak Bluff Estates;
4. Review culvert crossing alternatives and final schematic design at CR 123;
5. Develop channel improvement plan (and cross culverts/pipes) to serve Greenfield subdivision;
6. Development of cost estimates; and
7. Public outreach support.

The aforementioned supplemental field survey shall be obtained by the Engineer through services by a subconsultant selected by the Engineer; the scope and details of the supplemental field survey services are included but not limited to those described in the letter from McGray & McGray Land Surveyors, Inc. (McGray) attached herewith. The Engineer shall ensure the costs paid to McGray for the final obtained supplemental field survey services are based on actual hours worked by the employees of McGray to provide the services.

2.1.2 Task 2: Hydraulic Modeling and Inundation Mapping

Based on the final configurations, the Engineer will develop a hydraulic model using Infoworks-ICM and corresponding inundation maps to illustrate the resulting level of service of the improvements. The

Engineer will submit a letter report to the City explaining the model and results with appropriate maps and/or exhibits; the letter report shall also record and summarize analyses, data, and cost estimates performed previously under the Contract as appropriate.

2.1.3 Task 3: Construction Plans and Bidding

The Engineer will develop final construction documents (plans, specifications and estimate) for the improvements as directed by the City including additive alternatives, standard specifications, special provisions and the City's standard construction contract documents. Half size construction plans sheets will be submitted to the City for review at 60% complete. Half size final plans sheets will be signed and sealed. In addition to the construction plans, other contract documents and specifications will be included with the 60% plans for review and comment. No major utility adjustments are anticipated or included in this scope. The 100% submittal will be signed and sealed.

It is anticipated that geotechnical and structural engineering services will be required for development of the final construction documents. If required, said services shall be obtained by the Engineer through subconsultants selected by the Engineer; the scope and details of the geotechnical and structural engineering services are included but not limited to those described in the letters from Holt Engineering, Inc. (Holt) and Aguirre & Fields, LP (Aguirre & Fields) attached herewith. The Engineer shall ensure the costs paid to Holt and Aguirre & Fields for the final obtained geotechnical and structural engineering services, respectively, are based on actual hours worked by the employees of Holt and Aguirre & Fields to provide the respective services.

During bidding by the City for the work described in the final construction documents, the Engineer will attend and conduct one pre-bid conference if held by the City, will properly reply to the City regarding questions forwarded by the City pertaining to the construction documents, and will amend the construction documents as part of any addenda required to be issued as determined by the City.

2.2 Excluded services

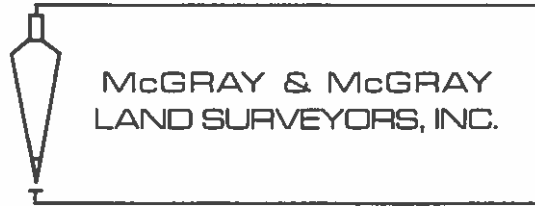
The following services are not included in the Scope of Work:

1. Environmental studies or environmental permitting;
2. Field notes for temporary or permanent easements;
3. Electric, cable, telephone, gas, water and wastewater utility adjustments other than minor items that can be addressed with simple notes and details incorporated into the construction documents; and
4. Landscaping or tree replacement plans are not included.

3. KEY PERSONNEL

Delete Chad Cormack, Project Manager in Table B-1 in Exhibit B of the Contract and replace with Brian K. Reis, Project Manager.

October 11, 2017



Brian Reis, P.E.
LAN Engineering
8911 N. Capital of Texas Hwy
Building 2, Suite 2300
Austin, TX 78759
(512) 338-4212

VIA EMAIL
BKReis@lan-inc.com

RE: Revised Proposal for Topographic Survey Services in Oak Bluff Estates and Greenfield's Subdivision, Round Rock, Texas.

Dear Mr. Reis:

We appreciate the opportunity to present you with this revised proposal for the above referenced project. The following represents our understanding of the area to survey, scope of services, and our fee proposal.

Areas to Survey:

Areas A through E as shown on Exhibit "A"

Scope of Services:

Survey Control:

- All data will be provided in Texas State Plane NAD83, NAVD88 coordinate system, per the existing project control, with surface to grid conversion factor noted, unless provided other control.

Design Survey:

- Cross sections shall be taken at 50-foot intervals along with break lines as required, to provide a digital topographic design file at 1-foot interval contours.
 - Area "A" – an area 30' west of the existing top of west bank
 - Area "B" – an area 30' north of the north property line of the subdivision
 - Area "C" – an area approximately 25' wide (between existing fencelines) south of the rear property lines of Lots 7-9, Block Two, Greenfield's Subdivision.
 - Area "D" – an area being the easterly 20' of Lot 10 and the southerly 120 ft. (approximately) of the westerly 20' of Lot 11, Greenfield's Subdivision.

- **Area “E”** – an area within said Lot 11 from the existing west top of bank westerly 25’, extending north from the rear line of said Lot 11 approximately 175’.
- Locate and identify all above ground features within the survey limits including buildings, fences, visible utilities, sidewalks, driveways, signs, manholes, water valves, telecom boxes, utility poles, water meters, etc. Trees 8-inches and larger in diameter shall be measured, identified and tagged with a point number.
- Invert elevations and size/type of utility and drainage pipes and culverts shall be identified for all manholes and culverts within the project limits.

Right -Of-Entry:

- The Client (or City of Round Rock) will obtain the Right-Of-Entry onto private property.

Electronic File Requirements:

- Survey shall be provided in AutoCAD (.dwg) format.
- The units of the drawing file shall be U.S. survey feet.

Fees (Non-taxable services):

***** Our fees are based on our being authorized to perform a minimum of three (3) of the Areas in one mobilization. We have assumed Areas B and C would be authorized together and, therefore, have given one fee for doing these at the same time.***

Design Survey Area “A”:

2 Man Crew	5 hrs @	\$150.00 /hr.=	\$	750.00
Field Coordinator:	0.5 hrs @	\$95.00 /hr.=	\$	47.50
Sr. Tech:	1 hrs @	\$93.00 /hr.=	\$	93.00
Tech:	3 hrs @	\$72.00 /hr.=	\$	216.00
RPLS:	1 hrs @	\$140.00 /hr.=	\$	140.00
Project Manager:	0.5 hrs @	\$160.00 /hr.=	\$	80.00
TOTAL = \$				1,326.50

Design Survey Area "B & C":

2 Man Crew	16 hrs @	\$150.00 /hr.=	\$ 2,400.00
Field Coordinator:	1 hrs @	\$95.00 /hr.=	\$ 95.00
Sr. Tech:	2 hrs @	\$93.00 /hr.=	\$ 186.00
Tech:	20 hrs @	\$72.00 /hr.=	\$ 1,440.00
RPLS:	3 hrs @	\$140.00 /hr.=	\$ 420.00
Project Manager:	0.5 hrs @	\$160.00 /hr.=	\$ 80.00
TOTAL =			\$ 4,621.00

Design Survey Area "D":

2 Man Crew	4 hrs @	\$150.00 /hr.=	\$ 600.00
Field Coordinator:	0.5 hrs @	\$95.00 /hr.=	\$ 47.50
Sr. Tech:	1 hrs @	\$93.00 /hr.=	\$ 93.00
Tech:	5 hrs @	\$72.00 /hr.=	\$ 360.00
RPLS:	1 hrs @	\$140.00 /hr.=	\$ 140.00
Project Manager:	0.5 hrs @	\$160.00 /hr.=	\$ 80.00
TOTAL =			\$ 1,320.50

Design Survey Area "E":

2 Man Crew	4 hrs @	\$150.00 /hr.=	\$ 600.00
Field Coordinator:	0.5 hrs @	\$95.00 /hr.=	\$ 47.50
Sr. Tech:	1 hrs @	\$93.00 /hr.=	\$ 93.00
Tech:	5 hrs @	\$72.00 /hr.=	\$ 360.00
RPLS:	1 hrs @	\$140.00 /hr.=	\$ 140.00
Project Manager:	0.5 hrs @	\$160.00 /hr.=	\$ 80.00
TOTAL =			\$ 1,320.50

Summary

Area "A"	\$ 1,326.50
Area "B & C"	4,621.00
Area "D"	1,320.50
Area "E"	1,320.50
GRAND TOTAL - Not to Exceed Maximum:	\$ 8,588.50

We will proceed as soon as we receive notice to proceed. We estimate it will take approximately 3 to 4 weeks (weekends and holidays excluded) from notice to proceed to complete this project, weather and circumstances beyond our control permitting. Please let us know if we need to accelerate this schedule.

Thank you for including us on this project. We look forward to the opportunity to work with you. If you think we have omitted any service you require or misinterpreted your request, please let Chris Conrad or Joe Webber know.

Sincerely,



Judith J. McGray, RPLS
President
TBPLS Firm #10095500

Authorized to Proceed by:

Signature

Date

Print Name

Title

JJM:CIC:klr
Encl.

Areas authorized to survey:

Area A _____

Areas B & C _____

Area D _____

Area E _____

EXHIBIT "A"

AREA "A"

AREA "B"

AREA "D"

AREA "C"

AREA "E"

Oak Ridge Estates

Evergreen Dr

Meander

Google Earth

© 2017 Google

600 ft



10 October 2017
Revised: 11 October 2017

Lockwood, Andrews & Newman, Inc.
Attn: Mr. Brian Reis, P.E.
8911 N. Capital of Texas Highway
Building 2, Suite 2300
Austin, TX 78759

Re: Oak Bluff/Greenfield
C.R. 123
Round Rock, Texas

Dear Mr. Reis:

As per your request we are providing a cost estimate for a Geotechnical Investigation for the above referenced project. The purpose of the investigation is to determine subsurface soil conditions at the site and obtain samples for laboratory testing in order to provide foundation and pavement design recommendations for the proposed drainage feature. It is our understanding the project will consist of drainage improvements including a new pavement design and retaining wall. We expect the retaining wall to be approximately 15 feet to 20 feet tall.

We plan to investigate the site by drilling, logging and sampling three soil borings to a depth of 15 feet to 30 feet each. The number and depth of the borings will be dependent on actual soil conditions encountered. If unusual or varying soil conditions are encountered then the borings may need to be deeper or additional borings may need to be drilled. Laboratory testing will be performed on selected samples and data obtained will be used to determine the engineering characteristics of the soil. Our engineering report will include boring logs, a boring location plan, laboratory test results, description of soil conditions, foundation recommendation including retaining wall design criteria and pavement thickness design recommendations.

The cost for the above work will be on the order of \$7,270.00 which presents a "not to exceed" maximum. An itemized cost estimate is attached. This cost is based on the site being accessible for our drill rig and right-of-entry to be obtained by other, if necessary. If these costs are satisfactory, please sign and return a copy to us for our files.

It should be noted the Texas ONE-CALL system for locating underground utilities will not typically mark utilities on private property. Holt will make a reasonable effort to locate underground utilities; however, if a private utility should be breached it is the property owner's responsibility for repairs.

We appreciate the opportunity to offer our services. If we can answer any questions concerning the above, please do not hesitate to call.

Sincerely,



Travis H. Bryant, P.E.
Project Engineer
Holt Engineering, Inc.
TBPE Firm Registration No. F-430

**GEOTECHNICAL INVESTIGATION
FOR
OAK BLUFF GREENFIELD
COUNTY ROAD 123
ROUND ROCK, TEXAS**

COST ESTIMATE

1.	Drilling Coordinator Time to Check Access/Locate Utilities 2 Trips @ 3 Hrs/Trip; 6 Hrs. @ \$85.00/Hr:.....	\$ 510.00
2.	Rig Mobilization:	650.00
3.	Drilling, Logging, and Sampling: 3 Soil Borings @ 15-30 Ft/Ea.; 65 L.F. 0 to 20 Ft; 55 L.F. @ \$16.00/Ft	880.00
	20 to 30 Ft; 10 L.F. @ \$18.00/Ft	180.00
4.	Traffic Control (Area Wide Protection) 1 Day @ \$1,200.00/Day:	1,200.00
4.	Laboratory Testing (Atterberg Limits, Unconfined Compression Tests, Minus #200 Sieve Tests, Moisture Contents, etc.)	850.00
5.	Engineering Report with Foundation and Pavement Thickness Design Recommendations:	3,000.00
	TOTAL ESTIMATED COST	\$ 7,270.00

CLIENT INFORMATION: (Responsible Billing Party)

This information must be filled out before the geotechnical investigation can be scheduled. The undersigned agrees to the above scope of work and following conditions and is responsible for payment.

Company Name (if applicable): _____ Date: _____

Printed Name/Title: _____ Signature: _____

Mailing Address: _____

_____ Email: _____

Phone: _____ Fax: _____

Please let us know if you would like an electronic copy (pdf file) of the report sent to the Architect, Structural Engineer, Contractor, etc. Thank you.

(1) _____

(2) _____

(3) _____

Name

Email Address (if known)

THE ATTACHED COST ESTIMATE IS BASED ON THE FOLLOWING CONDITIONS:

1. Holt will make a reasonable effort to avoid underground utilities; however, if a private utility should be breached it is the property owner's responsibility for repairs.
2. Our estimate is based on the site being accessible for our truck mounted drill rig and right-of-entry to be obtained by others.
3. The attached cost estimate will change based on changes or alterations to the scope of services. Additional costs may be incurred for engineering consultation with the Architect, Structural Engineer, and/or Contractor.
4. The cost estimates included herein are guaranteed for 90 days from the date of this proposal.
5. Payment is due within 10 days of payment from the owner Net from date of invoice. Clients with outstanding balances past 30 days are subject to a late fee. It is the client's responsibility to report billing errors immediately upon receipt. Holt Engineering, Inc. is not responsible for billing errors not reported within 30 days of billing.
6. This is an agreement between the parties, whose names appear above, and no one else. Further, this agreement is not intended for any other person's benefit. The parties agree that there are no express or implied warranties applicable to the professional services provided under this agreement; instead, performance under this agreement will be measured by the standards of care applicable to licensed professional engineers in Texas.

We appreciate the opportunity to submit this proposal and look forward to working with you on this project. Please call us if we can be of any additional assistance.



October 11, 2017

Mr. Brian Reis, P.E.
Lockwood, Andrews & Newman, Inc.
8911 N. Capital of Texas Hwy., Building 2, Suite 2300
Austin, TX 78759

Re: Letter of Agreement for City of Round Rock Oak Bluff/Greenfield Channel Improvements, Structural Services

Aguirre & Fields, LP (the Sub-consultant) appreciates the opportunity to submit this letter of agreement to Lockwood, Andrews & Newman, Inc. (the Engineer) for structural engineering services on the City of Round Rock Oak Bluff/Greenfield Channel Improvements. Per preliminary plans and discussions, the proposed effort shall include development of details and supporting calculations for two (2) junction boxes and one (1) multiple box culvert including headwall and wingwalls that will tie into an existing flume. These documents will be submitted to the City of Round Rock for review as part of a larger channel improvement engineering effort led by Lockwood, Andrews & Newman, Inc.

I. Scope of Work

- A. **Evaluation Phase** - Includes one (1) site visit to evaluate existing drainage structures and a review of As-Built drawings.
 - B. **Design Phase** - Includes development of signed/sealed details, construction notes, and calculations for the following drainage structures:
 - i. **Junction Box A** - Connects one (1) existing 72" RCP to one (1) existing 72" RCP and one (1) proposed 72" RCP. Replaces existing junction box.
 - ii. **Junction Box B** - Connects one (1) existing 72" RCP and one (1) proposed 72" RCP to proposed multiple box culvert. Top of junction box shall be closed with metal grate to allow runoff from existing swale to enter the system.
 - iii. **Multiple Box Culvert** - Crosses under existing roadway to connect proposed Junction Box B to existing flume. Replaces existing CMP and RCP system under existing roadway. Custom headwall and wingwall system is required to tie into existing flume.
- City of Round Rock review and comment incorporation take place in this phase. An in-person City of Round Rock review meeting is not anticipated.
- C. **Construction Phase** - Includes shop drawing review and response to three (3) field change/construction clarification requests.

II. Proposed Fee

The proposed fees for Scopes A, B, and C shall be on a lump sum basis as follows:

A. Evaluation Phase	= \$ 1,780
B. Design Phase	= \$ 28,200
i. Junction Box A	= \$ 7,400
ii. Junction Box B	= \$ 7,400
iii. Multiple Box Culvert	= \$ 13,400
C. Construction Phase	= \$ 3,120
	= \$ 33,100

III. Schedule

Upon NTP, we anticipate Preliminary Evaluation to take 1 month and Detailed Design to take 1-2 months. We will incorporate City of Round Rock review comments once received.

IV. Additional Documentation

The following document is attached and made a part of this Agreement:

Exhibit A – Terms and Conditions

Thank you for the opportunity to enter into this agreement. Upon proposal acceptance, please sign, date and return a pdf copy to Aguirre & Fields.

Signed:

Aguirre & Fields, LP:

Aguirre, LLC – General Partner

Lockwood, Andrews & Newman, Inc.

Name

Title

Name

Title

Date

Date

STRUCTURAL DESIGN FEE ESTIMATE
City of Round Rock Oak Bluff/Greenfield Channel Improvement Structures
Aguirre & Fields, LP

Task	Units	Quantity	MH/Unit	Project Manager	Sr. Structural Engineer	Structural Engineer	EIT	Tech	Clerical	Total	Total
Evaluation Phase											
Review As-Built Plans, etc.	Lump	1	2			2				2	\$340.00
Site Visit (safety protocol require 2 people min)	Lump	2	4		4	4				8	\$1,440.00
									Subtotal	10	\$1,780.00
Design Phase											
Junction Box A Details	Sheet	1	40		4	16		20		40	\$4,780.00
Junction Box B Details	Sheet	1	40		4	16		20		40	\$4,780.00
Multiple Box Culvert Details	Sheet	2	40		8	32		40		80	\$9,560.00
Junction Box A Calculations	Lump	1	8			8				8	\$1,360.00
Junction Box B Calculations	Lump	1	8			8				8	\$1,360.00
Multiple Box Culvert Calculations	Lump	1	8			8				8	\$1,360.00
Coordination with Other Disciplines	Lump	1	8		4	4				8	\$1,440.00
Prepare Formal Calculation PDF	Lump	1	8			8				8	\$1,360.00
QC Plan/Cals by Sr. Structural Engineer	Lump	1	4		4					4	\$760.00
Respond to City of Round Rock Comments	Lump	1	8		4	4				8	\$1,440.00
									Subtotal	212	\$28,200.00
Construction Phase											
Shop Drawing Review	Lump	3	4		2	10				12	\$2,080.00
Respond to Field Clarification Requests	Lump	3	2		1	5				6	\$1,040.00
									Subtotal	18	\$3,120.00
Total				0	35	125	0	80	0	240	\$33,100.00
Contract Rate					\$190.00	\$170.00	\$95.00	\$65.00			
Total				\$0.00	\$6,650.00	\$21,250.00	\$0.00	\$5,200.00	\$0.00		\$33,100.00

Summary	Sheets	Man-hours	Direct Labor	Direct Expenses	Total
Preliminary Phase	0	10	\$1,780.00	No Charge	\$1,780.00
Design Phase	4	212	\$28,200.00	No Charge	\$28,200.00
Construction Phase	0	18	\$3,120.00	No Charge	\$3,120.00
Total					\$33,100.00

ADDENDUM TO EXHIBIT C Work Schedule

The Work Schedule for the Tasks described in Addendum to Exhibit B is shown in the table below. Where Tasks shown in Exhibit C of the Contract are inherently related to Tasks described in Addendum to Exhibit B and have neither commenced nor been completed, the schedule shown in Exhibit C is extended and/or modified by the following table as appropriate.

Oak Bluff/Greenfield Drainage Improvements						
	2017	2018				
	Dec	Jan	Feb	Mar	April	May
Task 1:						
task item						
task item						
task item						
Task 2:						
task item						
task item						
task item						
Task 3:						
task item						
task item						
task item						
Task 4:						
task item						
task item						
task item						

Subject to the approval of the Owner, the Work Schedule above is exclusive of, and may be extended or revised due to, delays caused by inordinate time to receive necessary responses or direction from the Owner when requested by the Engineer, or other reasons significantly affecting the Work Schedule caused by parties beyond the control of the Engineer.

ADDENDUM TO EXHIBIT D Fee Schedule

Project Name: Oak Bluff/Greenfield Drainage Improvements

The following table delineates the fees for the Tasks and subconsultant services as described in Addendum to Exhibit B. Costs shown in Exhibit D of the Contract are unchanged and are also summarized in the following table.

Task	Total Labor Hours	Total Loaded Labor Cost*	Other Direct Costs	Subconsultants*	TOTALS
Task 1: Alignments and Final Route Selection	208	\$29,430.00	\$250.00	\$0.00	\$29,680.00
Field Surveying	n/a	\$858.00	\$0.00	\$8,589.00	\$9,447.00
Task 2: Hydraulic Modeling and Inundation Mapping	96	\$14,440.00	\$250.00	\$0.00	\$14,690.00
Task 3: Construction Plans and Bidding**	0	\$0.00	\$0.00	\$0.00	\$0.00
Geotechnical Engineering	n/a	\$727.00	\$0.00	\$7,270.00	\$7,997.00
Structural Engineering	n/a	\$3,310.00	\$0.00	\$33,100.00	\$36,410.00
Subtotals	304	\$48,765.00	\$500.00	\$48,959.00	\$98,224.00
Totals from Exhibit D	577	\$68,295.00	\$500.00	\$11,500.00	\$80,295.00
GRAND TOTAL:	881	\$117,060.00	\$1,000.00	\$60,459.00	\$178,519.00

*Costs shall be based on actual hours worked by employees of the Engineer and his subconsultants in accordance with Article 4 of the Contract.

**No additional hours and costs are necessary for the Engineer's personnel and are provided for in Exhibit D of the Contract; only subconsultant services as described in Addendum to Exhibit B are required additions as parts of this task.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Lockwood, Andrews & Newnam, Inc.
Houston, TX United States

Certificate Number:
2017-279393

Date Filed:
11/02/2017

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Round Rock

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

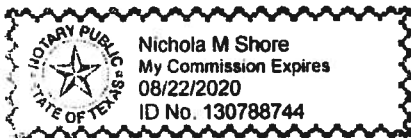
0199.1607;00388713
Engineering Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Daly, III, Leo	Washington, DC United States	X	
	Petersen, Dennis	Houston, TX United States	X	
	Brader, James	Omaha, NE United States	X	
	Curry, W. Derrell	Houston, TX United States	X	
	Boyd, J. Anthony	Houston, TX United States	X	
	Swafford, C. Wayne	Houston, TX United States	X	
	Vajdani, Sima	Los Angeles, CA United States	X	

5 Check only if there is NO Interested Party. ☐

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



Brian Reis
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said BRIAN REIS, this the 3rd day of November 2017, to certify which, witness my hand and seal of office.

Nichola M Shore

Signature of officer administering oath

NICHOLA M. SHORE

Printed name of officer administering oath






ROW TECH

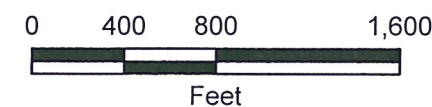
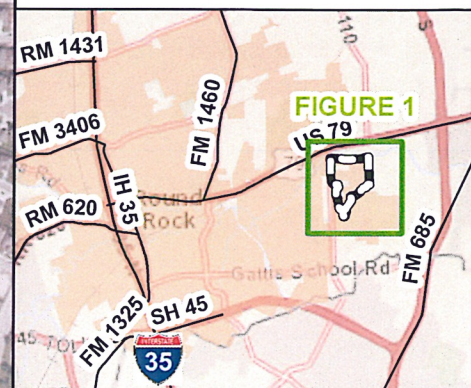
Title of officer administering oath

OAK BLUFF DRAINAGE IMPROVEMENTS

EXHIBIT B2 - PROJECT LOCATION MAP

LEGEND

-  2-DIMENSIONAL
MODELING EXTENT
-  AREA OF INTEREST
-  EXISTING INLET
-  EXISTING STORM
SEWER
-  STREAM CENTERLINE



**Lockwood, Andrews
& Newnam, Inc.**
A LEO A DALY COMPANY



City of Round Rock

Agenda Item Summary

Agenda Number: F.4

Title: Consider a resolution authorizing the Mayor to execute a Contract for Engineering Services with Freese and Nichols, Inc. for Erosion, Stabilization and Restoration Work Authorization.

Type: Resolution

Governing Body: City Council

Agenda Date: 11/21/2017

Dept Director: Michael Thane, Utilities and Environmental Services Director

Cost: \$150,000.00

Indexes: 2014 Drainage Revenue Bonds

Attachments: Resolution, Exhibit A, Form 1295

Department: Utilities and Environmental Services

Text of Legislative File 2017-4972

The City is recommending contracting with Freese and Nichols, Inc. to help evaluate and design stream stabilization and restoration of creeks and channels with erosion issues. City staff would like to execute a Work Authorization Contract with Freese and Nichols, Inc. to handle these issues. This contract will be utilized to create a Work Authorization Contract for each project that is necessary. The amount of each Work Authorization will be subtracted from the \$150,000 contract amount.

Freese and Nichols, Inc. staff is experienced working with creek restoration and stabilization. They will work alongside city staff to develop the most practicable solutions to ensure that each issue is fixed. Staff is optimistic that creative solutions and value engineering will allow for the completion of some of these CIP projects. As project budgets are revised down, the money will be relocated to future projects.

Cost: \$150,000.00

Source of Funds: 2014 Drainage Revenue Bonds

RESOLUTION NO. R-2017-4972

WHEREAS, the City of Round Rock desires to retain engineering services for the Erosion, Stabilization and Restoration Work Authorization Project, and

WHEREAS, Freese and Nichols, Inc. has submitted a Contract for Engineering Services to provide said services, and

WHEREAS, the City Council desires to enter into said contract with Freese and Nichols, Inc.,
Now Therefore

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ROUND ROCK, TEXAS,

That the Mayor is hereby authorized and directed to execute on behalf of the City a Contract for Engineering Services with Freese and Nichols, Inc. for the Erosion, Stabilization and Restoration Work Authorization Project, a copy of said contract being attached hereto as Exhibit "A" and incorporated herein for all purposes.

The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

RESOLVED this 21st day of November, 2017.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk

EXHIBIT

"A"



**CITY OF ROUND ROCK
CONTRACT FOR ENGINEERING SERVICES
FOR EROSION, STABILIZATION AND RESTORATION
WORK AUTHORIZATION**

FIRM: **FREESE AND NICHOLS, INC.** ("Engineer")
ADDRESS: **10431 Morado Circle, Building 5, Suite 300, Austin, TX 79729**

THE STATE OF TEXAS §
§
COUNTY OF WILLIAMSON §

THIS CONTRACT FOR ENGINEERING SERVICES ("Contract") is made and entered into to be effective on _____, 2017 by and between the CITY OF ROUND ROCK, a Texas home-rule municipal corporation, whose offices are located at 221 East Main Street, Round Rock, Texas 78664-5299, (hereinafter referred to as "City"), and Engineer, and such Contract is for the purpose of contracting for professional engineering services.

RECITALS:

WHEREAS, V.T.C.A., Government Code §2254.002(2)(A)(vii) under Subchapter A entitled "Professional Services Procurement Act" provides for the procurement by municipalities of services of professional engineers; and

WHEREAS, City and Engineer desire to contract for such professional engineering services; and

WHEREAS, City and Engineer wish to document their agreement concerning the requirements and respective obligations of the parties;

NOW, THEREFORE, WITNESSETH:

That for and in consideration of the mutual promises contained herein and other good and valuable considerations, and the covenants and agreements hereinafter contained to be kept and performed by the respective parties hereto, it is agreed as follows:

CONTRACT DOCUMENTS

The Contract Documents consist of this Contract and any exhibits attached hereto (which exhibits are hereby incorporated into and made a part of this Contract) and all Supplemental Contracts (as defined herein in Article 13) which are subsequently issued. These form the entire contract, and all are as fully a part of this Contract as if attached to this Contract or repeated herein.

ARTICLE 1 **CITY SERVICES**

City shall perform or provide services as identified in Exhibit A entitled "City Services."

ARTICLE 2 **ENGINEERING SERVICES**

Engineer shall perform Engineering Services as identified in Exhibit B entitled "Engineering Services."

Engineer shall perform the Engineering Services in accordance with a Work Schedule to be agreed upon between City and Engineer as part of the Work Authorization provided in Article 7 herein, "Work Authorization." Such Work Schedule shall contain a complete schedule so that the Engineering Services included in the Work Authorization may be accomplished within the specified time and at the specified cost. The Work Schedule shall provide specific work sequences and definite review times by City and Engineer of all Engineering Services. Should the review times or Engineering Services take longer than shown on the Work Schedule, through no fault of Engineer, Engineer may submit a timely written request for additional time, which shall be subject to the approval of the City Manager.

ARTICLE 3 **CONTRACT TERM**

(1) **Term.** This Agreement shall be from the date hereof and shall terminate at the close of business on the 14th day of the month of November, 2019, or as otherwise terminated as provided in Article 20 entitled "Termination." Any Engineering Services performed or costs incurred after the date of termination shall not be eligible for reimbursement. Engineer shall notify City in writing as soon as possible if he/she/it determines, or reasonably anticipates, that the Engineering Services will not be completed in accordance with the Work Schedule.

(2) **Work Schedule.** Engineer acknowledges that the Work Schedule is of critical importance, and agrees to undertake all necessary efforts to expedite the performance of Engineering Services required herein so that the services will be commenced and completed as scheduled. In this regard, and subject to adjustments in the Work Schedule as provided in Article 2 herein, Engineer shall proceed with sufficient qualified personnel and consultants necessary to fully and timely accomplish all Engineering Services required under this Contract in a professional manner.

(3) Work Authorization. After execution of this Contract, Engineer shall not proceed with Engineering Services until authorized in writing by City to proceed as provided in Article 7.

ARTICLE 4 **COMPENSATION**

City shall pay and Engineer agrees to accept the amount shown below as full compensation for all engineering services performed and to be performed under this Contract.

Engineer shall be paid on the basis of actual hours worked by employees performing work associated with this Contract, in accordance with the Fee Schedule attached hereto as Exhibit C. Payment of monies due for the Engineer's subconsultant's services, if any, shall be based on the actual amount billed to the Engineer by the subconsultant.

The maximum amount payable under this Contract, without modification of this Contract as provided herein, is the sum of One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00). Engineer shall prepare and submit to City monthly progress reports in sufficient detail to support the progress of the work and to support invoices requesting monthly payment. Any preferred format of City for such monthly progress reports shall be identified in Exhibit B entitled "Engineering Services". Satisfactory progress of work shall be an absolute condition of payment.

The maximum amount payable herein may be adjusted for additional work requested and performed only if approved by written Supplemental Agreement.

ARTICLE 5 **METHOD OF PAYMENT**

Payments to Engineer shall be made while Engineering Services are in progress. Engineer shall prepare and submit to City, not more frequently than once a month, an invoice showing Engineering Services performed. This submittal shall also include a progress assessment report in a form acceptable to City.

Payments shall be made by City based upon Engineering Services actually provided and performed. Upon timely receipt and approval of each statement, City shall make a good faith effort to pay the amount which is due and payable within thirty (30) days. City reserves the right to withhold payment pending verification of satisfactory Engineering Services performed. Engineer has the responsibility to submit proof to City, adequate and sufficient in its determination, that Engineering Services were completed.

The certified statements shall show the total amount earned to the date of submission and shall show the amount due and payable as of the date of the current statement. Final payment does not relieve Engineer of the responsibility of correcting any errors and/or omissions resulting from his/her/its negligence.

ARTICLE 6
PROMPT PAYMENT POLICY

In accordance with Chapter 2251, V.T.C.A., Texas Government Code, payment to Engineer will be made within thirty (30) days of the day on which the performance of services was complete, or within thirty (30) days of the day on which City receives a correct invoice for services, whichever is later. Engineer may charge a late fee (fee shall not be greater than that which is permitted by Texas law) for payments not made in accordance with this prompt payment policy; however, this policy does not apply in the event:

- A. There is a bona fide dispute between City and Engineer concerning the supplies, materials, or equipment delivered or the services performed that causes the payment to be late; or
- B. The terms of a federal contract, grant, regulation, or statute prevent City from making a timely payment with federal funds; or
- C. There is a bona fide dispute between Engineer and a subcontractor or between a subcontractor and its supplier concerning supplies, materials, or equipment delivered or the Engineering Services performed which causes the payment to be late; or
- D. The invoice is not mailed to City in strict accordance with instructions, if any, on the purchase order, or this Contract or other such contractual agreement.

City shall document to Engineer the issues related to disputed invoices within ten (10) calendar days of receipt of such invoice. Any non-disputed invoices shall be considered correct and payable per the terms of Chapter 2251, V.T.C.A., Texas Government Code.

ARTICLE 7
WORK AUTHORIZATION

The Engineer shall not proceed with any task listed on Exhibit B until the City has issued a written Work Authorization regarding such task. The City shall not be responsible for work performed or costs incurred by Engineer related to any task for which a Work Authorization has not been issued.

ARTICLE 8
PROJECT TEAM

City's Designated Representative for purposes of this Contract is as follows:

Federico Sanchez
Project Manager
2008 Enterprise Drive
Round Rock, TX 78664
Telephone Number (512) 218-6609
Fax Number (512) 218-5536
Email Address fsanchez@roundrocktexas.gov

City's Designated Representative shall be authorized to act on City's behalf with respect to this Contract. City or City's Designated Representative shall render decisions in a timely manner pertaining to documents submitted by Engineer in order to avoid unreasonable delay in the orderly and sequential progress of Engineering Services.

Engineer's Designated Representative for purposes of this Contract is as follows:

Kim Patak, P.E.
Associate
10431 Morado Circle, Building 5, Suite 300
Austin, TX 79729
Telephone Number (512) 617-3138
Fax Number (512) 617-3101
Email Address KKP@Freese.com

ARTICLE 9

PROGRESS EVALUATION

Engineer shall, from time to time during the progress of the Engineering Services, confer with City at City's election. Engineer shall prepare and present such information as may be pertinent and necessary, or as may be requested by City, in order for City to evaluate features of the Engineering Services. At the request of City or Engineer, conferences shall be provided at Engineer's office, the offices of City, or at other locations designated by City. When requested by City, such conferences shall also include evaluation of the Engineering Services.

Should City determine that the progress in Engineering Services does not satisfy the Work Schedule, then City shall review the Work Schedule with Engineer to determine corrective action required.

Engineer shall promptly advise City in writing of events which have or may have a significant impact upon the progress of the Engineering Services, including but not limited to the following:

- (1) Problems, delays, adverse conditions which may materially affect the ability to meet the objectives of the Work Schedule, or preclude the attainment of Engineering Services units by established time periods; and such disclosure shall be accompanied by statement of actions taken or contemplated, and City assistance needed to resolve the situation, if any; and
- (2) Favorable developments or events which enable meeting the Work Schedule goals sooner than anticipated.

ARTICLE 10

SUSPENSION

Should City desire to suspend the Engineering Services, but not to terminate this Contract, then such suspension may be effected by City giving Engineer thirty (30) calendar days' verbal notification followed by written confirmation to that effect. Such thirty-day notice may be waived in writing by agreement and signature of both parties. The Engineering Services may be reinstated and resumed in full force and effect within sixty (60) days of receipt of written notice from City to resume the Engineering Services. Such sixty-day notice may be waived in writing by agreement and signature of both parties. If this Contract is suspended for more than thirty (30) days, Engineer shall have the option of terminating this Contract.

City assumes no liability for Engineering Services performed or costs incurred prior to the date authorized by City for Engineer to begin Engineering Services, and/or during periods when Engineering Services is suspended, and/or subsequent to the contract completion date.

ARTICLE 11

ADDITIONAL ENGINEERING SERVICES

If Engineer forms a reasonable opinion that any work he/she/it has been directed to perform is beyond the scope of this Contract and as such constitutes extra work, he/she/it shall promptly notify City in writing. In the event City finds that such work does constitute extra work and exceeds the maximum amount payable, City shall so advise Engineer and a written Supplemental Contract will be executed between the parties as provided in Article 13. Engineer shall not perform any proposed additional work nor incur any additional costs prior to the execution, by both parties, of a written Supplemental Contract. City shall not be responsible for actions by Engineer nor for any costs incurred by Engineer relating to additional work not directly associated with the performance of the Engineering Services authorized in this Contract or any amendments thereto.

ARTICLE 12

CHANGES IN ENGINEERING SERVICES

If City deems it necessary to request changes to previously satisfactorily completed Engineering Services or parts thereof which involve changes to the original Engineering Services or character of Engineering Services under this Contract, then Engineer shall make such revisions as requested and as directed by City. Such revisions shall be considered as additional Engineering Services and paid for as specified under Article 11.

Engineer shall make revisions to Engineering Services authorized hereunder as are necessary to correct errors appearing therein, when required to do so by City. No additional compensation shall be due for such Engineering Services.

ARTICLE 13

SUPPLEMENTAL CONTRACTS

The terms of this Contract may be modified by written Supplemental Contract if City determines that there has been a significant change in (1) the scope, complexity or character of the Engineering Services, or (2) the duration of the Engineering Services. Any such Supplemental Contract must be duly authorized by the City. Engineer shall not proceed until the Supplemental Contract has been executed. Additional compensation, if appropriate, shall be identified as provided in Article 4.

It is understood and agreed by and between both parties that Engineer shall make no claim for extra work done or materials furnished until the City authorizes full execution of the written Supplemental Contract and authorization to proceed. City reserves the right to withhold payment pending verification of satisfactory Engineering Services performed.

ARTICLE 14

USE OF DOCUMENTS

All documents, including but not limited to drawings, specifications and data or programs stored electronically, (hereinafter referred to as "Instruments of Service") prepared by Engineer and its subcontractors are related exclusively to the services described in this Contract and are intended to be used with respect to this Contract. However, it is expressly understood and agreed by and between the parties hereto that all of Engineer's designs under this Contract (including but not limited to tracings, drawings, estimates, specifications, investigations, studies and other documents, completed or partially completed), shall be the property of City to be thereafter used in any lawful manner as City elects. Any such subsequent use made of documents by City shall be at City's sole risk and without liability to Engineer, and, to the extent permitted by law, City shall indemnify, defend and hold harmless Engineer from all claims, damages, losses and expenses, including but not limited to attorneys fees, resulting therefrom.

By execution of this Contract and in confirmation of the fee for services to be paid under this Contract, Engineer hereby conveys, transfers and assigns to City all rights under the Federal Copyright Act of 1976 (or any successor copyright statute), as amended, all common law copyrights and all other intellectual property rights acknowledged by law in any designs and work product developed under this Contract. Copies may be retained by Engineer. Engineer shall be liable to City for any loss or damage to any such documents while they are in the possession of or while being worked upon by Engineer or anyone connected with Engineer, including agents, employees, Engineers or subcontractors. All documents so lost or damaged shall be replaced or restored by Engineer without cost to City.

Upon execution of this Contract, Engineer grants to City permission to reproduce Engineer's work and documents for purposes of constructing, using and maintaining infrastructure or facilities for which said work and documents were prepared, provided that City shall comply with its obligations, including prompt payment of all sums when due, under this Contract. Engineer shall obtain similar permission from Engineer's subcontractors consistent with this Contract. If and upon the date Engineer is adjudged in default of this Contract, City is permitted to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the work and documents for the

purposes of completing, using and maintaining infrastructure or facilities for which said work and documents were prepared.

City shall not assign, delegate, sublicense, pledge or otherwise transfer any permission granted herein to another party without the prior written agreement of Engineer. However, City shall be permitted to authorize a contractor, subcontractors and material or equipment suppliers to reproduce applicable portions of the Instruments of Service appropriate to and for use in their execution of work for the City. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes is permitted. Any unauthorized use of the Instruments of Service shall be at City's sole risk and without liability to Engineer and its Engineers.

Prior to Engineer providing to City any Instruments of Service in electronic form or City providing to Engineer any electronic data for incorporation into the Instruments of Service, City and Engineer shall by separate written agreement set forth the specific conditions governing the format of such Instruments of Service or electronic data, including any special limitations not otherwise provided in this Contract. Any electronic files are provided by Engineer for the convenience of City, and use of them is at City's sole risk. In the case of any defects in electronic files or any discrepancies between them and any hardcopy of the same documents prepared by Engineer, the hardcopy shall prevail. Only printed copies of documents conveyed by Engineer shall be relied upon.

Engineer shall have no liability for changes made to Engineer's Instruments of Service by other engineers subsequent to the completion and delivery of the Instruments of Service to the City. Any such change shall be sealed by the engineer making that change and shall be appropriately marked to reflect what was changed or modified.

ARTICLE 15

PERSONNEL, EQUIPMENT AND MATERIAL

Engineer shall furnish and maintain, at its own expense, quarters for the performance of all Engineering Services, and adequate and sufficient personnel and equipment to perform the Engineering Services as required. All employees of Engineer shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Engineer who, in the opinion of City, is incompetent or whose conduct becomes detrimental to the Engineering Services shall immediately be removed from association with this Contract when so instructed by City. Engineer certifies that it presently has adequate qualified personnel in its employment for performance of the Engineering Services required under this Contract, or will obtain such personnel from sources other than City. Engineer may not change the Project Manager without prior written consent of City.

ARTICLE 16

SUBCONTRACTING

Engineer shall not assign, subcontract or transfer any portion of the Engineering Services under this Contract without prior written approval from City. All subcontracts shall include the provisions required in this Contract and shall be approved as to form, in writing, by City prior to Engineering Services being performed under the subcontract. No subcontract shall relieve Engineer of any responsibilities under this Contract.

ARTICLE 17
EVALUATION OF ENGINEERING SERVICES

City, or any authorized representatives of it, shall have the right at all reasonable times to review or otherwise evaluate the Engineering Services performed or being performed hereunder and the premises on which it is being performed. If any review or evaluation is made on the premises of Engineer or a subcontractor, then Engineer shall provide and require its subcontractors to provide all reasonable facilities and assistance for the safety and convenience of City or other representatives in the performance of their duties.

ARTICLE 18
SUBMISSION OF REPORTS

All applicable study reports shall be submitted in preliminary form for approval by City before any final report is issued. City's comments on Engineer's preliminary reports shall be addressed in any final report.

ARTICLE 19
VIOLATION OF CONTRACT TERMS/BREACH OF CONTRACT

Violation of contract terms or breach of contract by Engineer shall be grounds for termination of this Contract, and any increased costs arising from Engineer's default, breach of contract, or violation of contract terms shall be paid by Engineer.

ARTICLE 20
TERMINATION

This Contract may be terminated as set forth below.

- (1) By mutual agreement and consent, in writing, of both parties.
- (2) By City, by notice in writing to Engineer, as a consequence of failure by Engineer to perform the Engineering Services set forth herein in a satisfactory manner.
- (3) By either party, upon the failure of the other party to fulfill its obligations as set forth herein.
- (4) By City, for reasons of its own and not subject to the mutual consent of Engineer, upon not less than thirty (30) days' written notice to Engineer.
- (5) By satisfactory completion of all Engineering Services and obligations described herein.

Should City terminate this Contract as herein provided, no fees other than fees due and payable at the time of termination shall thereafter be paid to Engineer. In determining the value of the Engineering Services performed by Engineer prior to termination, City shall be the sole judge. Should City terminate this Contract under Subsection (4) immediately above, then the

amount charged during the thirty-day notice period shall not exceed the amount charged during the preceding thirty (30) days.

If Engineer defaults in the performance of this Contract or if City terminates this Contract for fault on the part of Engineer, then City shall give consideration to the actual costs incurred by Engineer in performing the Engineering Services to the date of default, the amount of Engineering Services required which was satisfactorily completed to date of default, the value of the Engineering Services which are usable to City, the cost to City of employing another firm to complete the Engineering Services required and the time required to do so, and other factors which affect the value to City of the Engineering Services performed at the time of default.

The termination of this Contract and payment of an amount in settlement as prescribed above shall extinguish all rights, duties, and obligations of City and Engineer under this Contract, except the obligations set forth herein in Article 21 entitled "Compliance with Laws." If the termination of this Contract is due to the failure of Engineer to fulfill his/her/its contractual obligations, then City may take over and prosecute the Engineering Services to completion. In such case, Engineer shall be liable to City for any additional and reasonable costs incurred by City.

Engineer shall be responsible for the settlement of all contractual and administrative issues arising out of any procurements made by Engineer in support of the Engineering Services under this Contract.

ARTICLE 21

COMPLIANCE WITH LAWS

(1) Compliance. Engineer shall comply with all applicable federal, state and local laws, statutes, codes, ordinances, rules and regulations, and the orders and decrees of any court, or administrative bodies or tribunals in any manner affecting the performance of this Contract, including without limitation, minimum/maximum salary and wage statutes and regulations, and licensing laws and regulations. Engineer shall furnish City with satisfactory proof of his/her/its compliance.

Engineer shall further obtain all permits and licenses required in the performance of the Engineering Services contracted for herein.

(2) Taxes. Engineer will pay all taxes, if any, required by law arising by virtue of the Engineering Services performed hereunder. City is qualified for exemption pursuant to the provisions of Section 151.309 of the Texas Limited Sales, Excise, and Use Tax Act.

ARTICLE 22

INDEMNIFICATION

Engineer shall save and hold harmless City and its officers and employees from all claims and liabilities due to activities of his/her/itself and his/her/its agents or employees, performed under this Contract, which are caused by or which result from the negligent error, omission, or negligent act of Engineer or of any person employed by Engineer or under Engineer's direction or control.

Engineer shall also save and hold City harmless from any and all expenses, including but not limited to attorneys fees which may be incurred by City in litigation or otherwise defending claims or liabilities which may be imposed on City as a result of such negligent activities by Engineer, its agents, or employees.

ARTICLE 23

ENGINEER'S RESPONSIBILITIES

Engineer shall be responsible for the accuracy of his/her/its Engineering Services and shall promptly make necessary revisions or corrections to its work product resulting from errors, omissions, or negligent acts, and same shall be done without compensation. City shall determine Engineer's responsibilities for all questions arising from design errors and/or omissions. Engineer shall not be relieved of responsibility for subsequent correction of any such errors or omissions in its work product, or for clarification of any ambiguities until after any construction project or maintenance performed pursuant to the Engineering Services provided under this Contract has been satisfactorily completed.

ARTICLE 24

ENGINEER'S SEAL

The responsible engineer shall sign, seal and date all appropriate engineering submissions to City in accordance with the Texas Engineering Practice Act and the rules of the State Board of Registration for Professional Engineers.

ARTICLE 25

NON-COLLUSION, FINANCIAL INTEREST PROHIBITED

(1) Non-collusion. Engineer warrants that he/she/it has not employed or retained any company or persons, other than a bona fide employee working solely for Engineer, to solicit or secure this Contract, and that he/she/it has not paid or agreed to pay any company or engineer any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, City reserves and shall have the right to annul this Contract without liability or, in its discretion and at its sole election, to deduct from the contract price or compensation, or to otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

(2) Financial Interest Prohibited. Engineer covenants and represents that Engineer, his/her/its officers, employees, agents, consultants and subcontractors will have no financial interest, direct or indirect, in the purchase or sale of any product, materials or equipment that

will be recommended or required for any construction project or maintenance performed pursuant to the Engineering Services provided under this Contract.

ARTICLE 26 **INSURANCE**

(1) Insurance. Engineer, at Engineer's sole cost, shall purchase and maintain during the entire term while this Contract is in effect professional liability insurance coverage in the minimum amount of One Million Dollars per claim from a company authorized to do insurance business in Texas and otherwise acceptable to City. Engineer shall also notify City, within twenty-four (24) hours of receipt, of any notices of expiration, cancellation, non-renewal, or material change in coverage it receives from its insurer.

(2) Subconsultant Insurance. Without limiting any of the other obligations or liabilities of Engineer, Engineer shall require each subconsultant performing work under this Contract to maintain during the term of this Contract, at the subconsultant's own expense, the same stipulated minimum insurance required in Article 26, Section (1) above, including the required provisions and additional policy conditions as shown below in Article 26, Section (3).

Engineer shall obtain and monitor the certificates of insurance from each subconsultant in order to assure compliance with the insurance requirements. Engineer must retain the certificates of insurance for the duration of this Contract, and shall have the responsibility of enforcing these insurance requirements among its subconsultants. City shall be entitled, upon request and without expense, to receive copies of these certificates of insurance.

(3) Insurance Policy Endorsements. Each insurance policy shall include the following conditions by endorsement to the policy:

- (a) Each policy shall require that thirty (30) days prior to the expiration, cancellation, non-renewal or reduction in limits by endorsement a notice thereof shall be given to City by certified mail to:

City Manager, City of Round Rock
221 East Main Street
Round Rock, Texas 78664

- (b) The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by City, to any such future coverage, or to City's Self-Insured Retentions of whatever nature.

(4) Cost of Insurance. The cost of all insurance required herein to be secured and maintained by Engineer shall be borne solely by Engineer, with certificates of insurance evidencing such minimum coverage in force to be filed with City. Such Certificates of Insurance are evidenced as Exhibit D herein entitled "Certificates of Insurance."

ARTICLE 27
COPYRIGHTS

City shall have the royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any reports developed by Engineer for governmental purposes.

ARTICLE 28
SUCCESSORS AND ASSIGNS

This Contract shall be binding upon and inure to the benefit of the parties hereto, their successors, lawful assigns, and legal representatives. Engineer may not assign, sublet or transfer any interest in this Contract, in whole or in part, by operation of law or otherwise, without obtaining the prior written consent of City.

ARTICLE 29
SEVERABILITY

In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision thereof and this Contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

ARTICLE 30
PRIOR AGREEMENTS SUPERSEDED

This Contract constitutes the sole agreement of the parties hereto, and supersedes any prior understandings or written or oral contracts between the parties respecting the subject matter defined herein. This Contract may only be amended or supplemented by mutual agreement of the parties hereto in writing.

ARTICLE 31
ENGINEER'S ACCOUNTING RECORDS

Records pertaining to this Contract, and records of accounts between City and Engineer, shall be kept on a generally recognized accounting basis and shall be available to City or its authorized representatives at mutually convenient times. The City reserves the right to review all records it deems relevant which are related to this Contract.

ARTICLE 32
NOTICES

All notices to either party by the other required under this Contract shall be personally delivered or mailed to such party at the following respective addresses:

City:

City of Round Rock
Attention: City Manager
221 East Main Street
Round Rock, TX 78664

and to:

Stephan L. Sheets
City Attorney
309 East Main Street
Round Rock, TX 78664

Engineer:

Kim Patak, P.E.
Associate
10431 Morado Circle, Building 5, Suite 300
Austin, TX 79729

ARTICLE 33
GENERAL PROVISIONS

(1) Time is of the Essence. Engineer understands and agrees that time is of the essence and that any failure of Engineer to complete the Engineering Services for each phase of this Contract within the agreed Work Schedule may constitute a material breach of this Contract. Engineer shall be fully responsible for his/her/its delays or for failures to use his/her/its reasonable efforts in accordance with the terms of this Contract and the Engineer's standard of performance as defined herein. Where damage is caused to City due to Engineer's negligent failure to perform City may accordingly withhold, to the extent of such damage, Engineer's payments hereunder without waiver of any of City's additional legal rights or remedies.

(2) Force Majeure. Neither City nor Engineer shall be deemed in violation of this Contract if prevented from performing any of their obligations hereunder by reasons for which they are not responsible or circumstances beyond their control. However, notice of such impediment or delay in performance must be timely given, and all reasonable efforts undertaken to mitigate its effects.

(3) Enforcement and Venue. This Contract shall be enforceable in Round Rock, Williamson County, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Williamson County, Texas. This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

(4) Standard of Performance. The standard of care for all professional engineering, consulting and related services performed or furnished by Engineer and its employees under this Contract will be the care and skill ordinarily used by members of Engineer's profession practicing under the same or similar circumstances at the same time and in the same locality.

Excepting Articles 25 and 34 herein, Engineer makes no warranties, express or implied, under this Contract or otherwise, in connection with the Engineering Services.

(5) Opinion of Probable Cost. Any opinions of probable project cost or probable construction cost provided by Engineer are made on the basis of information available to Engineer and on the basis of Engineer's experience and qualifications and represents its judgment as an experienced and qualified professional engineer. However, since Engineer has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s') methods of determining prices, or over competitive bidding or market conditions, Engineer does not guarantee that proposals, bids or actual project or construction cost will not vary from opinions of probable cost Engineer prepares.

(6) Opinions and Determinations. Where the terms of this Contract provide for action to be based upon opinion, judgment, approval, review, or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

ARTICLE 34 **SIGNATORY WARRANTY**

The undersigned signatory for Engineer hereby represents and warrants that the signatory is an officer of the organization for which he/she has executed this Contract and that he/she has full and complete authority to enter into this Contract on behalf of the firm. The above-stated representations and warranties are made for the purpose of inducing City to enter into this Contract.

IN WITNESS WHEREOF, the City of Round Rock has caused this Contract to be signed in its corporate name by its duly authorized City Manager or Mayor, as has Engineer, signing by and through its duly authorized representative(s), thereby binding the parties hereto, their successors, assigns and representatives for the faithful and full performance of the terms and provisions hereof.

CITY OF ROUND ROCK, TEXAS

APPROVED AS TO FORM:

By: _____
Craig Morgan, Mayor

Stephan L. Sheets, City Attorney

ATTEST:

By: _____
Sara L. White, City Clerk

FREESE AND NICHOLS, INC.

By: _____
Signature of Principal
Printed Name: _____

LIST OF EXHIBITS ATTACHED

- | | |
|---------------|---------------------------|
| (1) Exhibit A | City Services |
| (2) Exhibit B | Engineering Services |
| (3) Exhibit C | Fee Schedule |
| (4) Exhibit D | Certificates of Insurance |

EXHIBIT A

City Services

The City will provide the following information and other assistance to the Engineer (Freese and Nichols, Inc.) that the City deems appropriate and necessary:

1. Any readily available pertinent existing information relating to the services to be performed by the Engineer; the City will provide one copy of such information in a format chosen by the City.
2. Clear direction and/or response to questions or requests made by the Engineer in the course of the Engineer's performance of services.
3. Timely review of deliverables that have been properly completed and submitted by the Engineer; and timely provisions of comments, if any, to the Engineer resulting from said reviews.

EXHIBIT B

Engineering Services

1. PROJECT PURPOSE

The purpose of the project is to evaluate and/or design stream stabilization projects, overseeing construction, and monitoring repaired sites for creeks and channels with erosion issues that include but not limited to threatening channel banks, public utilities, and/or private property.

2. GENERAL SCOPE OF WORK

The services shown below in the “Scope of Services” are representative of the types of services contemplated on the Contract. It is not considered an exhaustive list of all engineering services that are possible under the Contract nor does it guarantee that all of the services will be requested or required.

Scope of Services:

Project Management

1. Project Management/Administration - This task includes routine communication with the City; managing manpower, budgets, and schedules; invoicing; implementing and monitoring of QA/QC efforts; and other general management activities associated with a particular Work Authorization.
2. Project Meetings and Status Reports - FNI will attend meetings with the City to review progress and upcoming work as needed and issue meeting minutes. FNI will also submit status reports to the City at agreed upon intervals documenting progress, budget, and schedule.

Preliminary Engineering (as authorized)

1. Data Acquisition - This task will include a site visit to obtain rough field measurements and the collection of various data such as existing plans, models, LiDAR contour data, and easement documents.
2. Preliminary Design - FNI will develop and review the design solution alternatives for creeks and channels with erosion issues with the City. FNI will use the information found during Data Acquisition in order to examine the feasibility of alternative designs and materials and to present the City with recommendations.
3. Hydrologic and Hydraulic Analysis – If there is no existing hydrologic and hydraulic modeling or analysis that encompasses the project area, FNI will develop the models or perform the analysis to generate data necessary for the analysis and design of repairs (flows, velocity, sheer stress). Hydrologic and Hydrologic analyses will be coordinated with the CITY to determine the appropriate methodology and level of detail.

4. Preliminary Design Report/Technical Memorandum - The Preliminary Design will be documented in a written report that will include:
 - a. Description of the problem
 - b. Method of analysis
 - c. Description of Existing Conditions
 - d. Description of Proposed Design Alternatives
 - e. Engineer's Estimate of Probable Construction Cost for each option
5. Deliverables - An electronic copy of the Preliminary Design Report will be submitted in a format acceptable to the City.

Design Services (as authorized)

1. Data Acquisition - This task will include site visits and may include surveying and geotechnical services.
2. Sediment/Erosion Analysis – FNI will complete a geomorphic assessment of the project reach to determine channel morphology including current and potential bank failures, erosion, incision, areas of aggradation and degradation, riparian canopy, and debris jams. Analysis will include an excess shear stress analysis, incipient motion analysis, scout analysis, and estimate of the equilibrium slope of the channel. The data and analysis will be summarized in a technical memorandum and will include recommendations for the stabilization.
3. Plans Preparation - FNI will further refine the selected alternatives for stabilization and riparian restoration based on feedback and comments provided by the City. If necessary, updates to the hydraulic modeling will be incorporated into the plans as they progress towards the 100% PS&E.
4. Technical Specifications - Technical Specifications will be based on the City's Standard Specifications and be supplemented where necessary. This scope of services includes preparation of a City Bid Form and Technical Specifications Amendments to be included in a standard Project Manual, but does not include preparation of an entire Project Manual.
5. Submittal Preparation - FNI will prepare electronic copies of the Plans Preparations for the interim and 100% PS&E submittal. For the 100% submittal, this shall include a copy of any hydrologic and hydraulic modeling along with any spreadsheets used in the preparation of the technical analysis.
6. Engineer's Estimate of Probable Construction Costs - Upon completion of design an Engineer's Estimate of Probable Construction Costs will be developed and included with the final submittal package.
7. QA/QC of Contract Documents - FNI will conduct full Project Design Team technical reviews prior to each submittal for both the Preliminary Design and Design Phase services.
8. Final Design Report - FNI will incorporate the final plans design into the Preliminary Design Report.

9. Deliverables - Deliverables will include 1 original plus 3 copies of the construction plans, produced on 22" x 34" sheets, three sets of technical specification amendments, and the Engineer's Estimate.

Construction Services (as authorized)

1. Bid Phase Services – Assist the City in advertising the project for award as requested. Services may include distributing construction documents and maintaining plan holder list, attending the pre-bid conference and bid-opening, answering contractor questions and issue addenda if needed, and providing a bid-tabulation and recommendation for award.
2. Construction Phase Services – Upon completion of bid phase services provide construction phase services as requested. FNI can provide a range of services from periodic site visits, to general construction representation, to full-time on-site resident representation.

Post Construction Monitoring (as authorized)

1. Work with the City to establish monitoring plan for repaired sites to include type of documentation, frequency of monitoring visits, and duration of the post construction monitoring.

3. KEY PERSONNEL

A summary of the proposed key personnel including names and titles are presented in Table B-1.

**TABLE B-1
SUMMARY OF PROPOSED ENGINEERING TEAM PERSONNEL**

NAME	TITLE	CLASSIFICATION
John Wolfhope, P.E.	Principal	Professional 6
Jay Scanlon, P.E.	Senior Engineer	Professional 6
Bryan Dick, P.E.	Senior Engineer	Professional 6
Marc Miller, P.E.	Senior Engineer	Professional 5
Kim Patak, P.E.	Project Manager	Professional 4
Blaine Laechelin, P.E.	Engineer	Professional 3
Will Huff, P.E.	Engineer	Professional 3
Cris Weber, P.E.	Engineer	Professional 4
Kaylyn Hudson	EIT	Professional 2
Stephen Norair	Fluvial Geomorphologist	Professional 1
Patrick Garnett	Permitting/Env Restoration	Professional 4
Tanner Griffin	Construction Services	Const. Manager 3
Shawn Hutcherson	Engineer	Professional 3

EXHIBIT C

Fee Schedule

Hourly rates to be billed on a time and materials basis per Attachment C:

*Rates may be amended once between July 1, 2018 and June 30, 2019, not to exceed a 3% increase.

EXHIBIT D

Certificate of Insurance

Attached Behind This Page



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/23/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Ames & Gough 8300 Greenboro Dr. Suite 980 McLean VA 22102	CONTACT NAME:		
	PHONE (A/C, No, Ext): 703-827-2277 E-MAIL: admin@amesgough.com ADDRESS:	FAX (A/C, No): 703-827-2279	
INSURED Freese and Nichols, Inc. 4055 International Plaza, Suite 200 Fort Worth TX 76109	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Continental Casualty Company (CNA)		20443
	INSURER B : Hartford Casualty Insurance Company		29424
	INSURER C : Trumbull Insurance Company A+ (XV)		27120
	INSURER D :		
	INSURER E :		
INSURER F :			

COVERAGES

CERTIFICATE NUMBER: 1714048639

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		42UUNNI6224	10/23/2017	10/23/2018	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		42UENNI6305	10/23/2017	10/23/2018	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10,000		42RHUNI5748	10/23/2017	10/23/2018	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$
C	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A		42WBCU2821	10/23/2017	10/23/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
A	Professional Liability		AEH008214422	10/23/2017	10/23/2018	5,000,000 / per claim 10,000,000 aggr

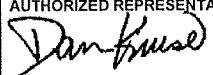
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Erosion, Stabilization, and Restoration Projects

The City and its employees, officers, officials, agents, and volunteers are included as Additional Insured with respect to General Liability and Auto Liability when required by written contract. Auto Liability, General Liability, and Worker's Compensation policies include waiver of subrogation in favor of the additional insureds where permissible by state law and when required by written contract.

CERTIFICATE HOLDER

CANCELLATION

City of Round Rock 221 E. Main Street Round Rock TX 78664	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

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CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2017-280531

Date Filed:
11/06/2017

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Freese and Nichols, Inc.
Austin, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Round Rock

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

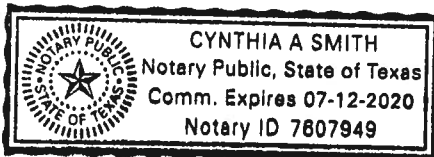
RRKXXXXX
engineering services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Gooch, Tom	Fort Worth, TX United States	X	
	Hatley, Tricia	Oklahoma City, OK United States	X	
	New, John	San Antonio, TX United States	X	
	Payne, Jeff	Dallas, TX United States	X	
	Milrany, Cindy	Fort Worth, TX United States	X	
	Nichols, Mike	Fort Worth, TX United States	X	
	Coltharp, Brian	Fort Worth, TX United States	X	
	Herchert, Robert	Fort Worth, TX United States	X	
	Pence, Robert	Fort Worth, TX United States	X	

5 Check only if there is NO Interested Party. ☐

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



John S. Wolfpape
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said John S. Wolfpape, this the 6th day of November, 20 17, to certify which, witness my hand and seal of office.

Cynthia A. Smith
Signature of officer administering oath

Cynthia A. Smith
Printed name of officer administering oath

Notary
Title of officer administering oath



City of Round Rock

Agenda Item Summary

Agenda Number: G.1

Title: Consider a Fifth Supplemental Ordinance to the Master Ordinance Establishing the City of Round Rock, Texas Utility System Revenue Financing Program. (First Reading)*

Type: Ordinance

Governing Body: City Council

Agenda Date: 11/21/2017

Dept Director: Susan Morgan, CFO

Cost:

Indexes:

Attachments: Ordinance

Department: Finance Department

Text of Legislative File 2017-4993

This action proposes refunding \$33.5 million in 2009 Utility System Revenue bonds. Due to current favorable market conditions and pending federal tax legislation that would disallow all tax-exempt advanced refundings after December 31, 2017, staff recommends that the City take the opportunity to refinance this debt at a more favorable rate. The net present value savings over the life of the debt is projected to be approximately \$3.7 million. These savings will benefit the City's wastewater operations by reducing annual interest payments by approximately \$187,000. The City will be utilizing the negotiated sale method which allows greater flexibility at the time of pricing. This will be an advanced refunding and is expected to close in December 2017.

This ordinance will be approved and effective on First Reading in accordance with Section 1201.028, Texas Government Code.

ORDINANCE NO. O-2017-4993

**FIFTH SUPPLEMENTAL ORDINANCE TO THE
MASTER ORDINANCE ESTABLISHING THE
CITY OF ROUND ROCK, TEXAS
UTILITY SYSTEM REVENUE FINANCING PROGRAM**

Adopted November 21, 2017

**FIFTH SUPPLEMENTAL ORDINANCE TO THE
MASTER ORDINANCE ESTABLISHING THE
CITY OF ROUND ROCK, TEXAS
UTILITY SYSTEM REVENUE FINANCING PROGRAM**

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ORDINANCE NO. O-2017-4993

**FIFTH SUPPLEMENTAL ORDINANCE TO THE
MASTER ORDINANCE ESTABLISHING THE
CITY OF ROUND ROCK, TEXAS
UTILITY SYSTEM REVENUE FINANCING PROGRAM**

THE STATE OF TEXAS

CITY OF ROUND ROCK

WHEREAS, on September 14, 2006, the City Council of the City of Round Rock, Texas (the "City"), adopted a "Master Ordinance Establishing the City of Round Rock, Texas Utility System Revenue Financing Program," as amended by a first amendment thereto, (collectively referred to herein as the "Master Ordinance"); and

WHEREAS, in order to enable the City to provide for the financing of utility system projects authorized by Chapter 1502, Texas Government Code, as amended, and any other applicable provisions of State law, the Master Ordinance establishes a revenue financing program pursuant to which the City can issue and enter into obligations, including bonds and other types of obligations, secured by and payable from a pledge of and lien on all or part of the Security, as hereinafter defined; and

WHEREAS, the City Council of the City deems it advisable and in the best interests of the City to refund the Refunded Obligations (as defined in Exhibit "A" hereto) in order to achieve a net present value debt service savings of not less than 3.0% of the principal amount of the Refunded Obligations net of any City contribution with such savings, among other information and terms to be included in a pricing certificate to be executed by the City Manager, acting as the designated pricing officer of the City, or, in the absence of the City Manager, the Chief Financial Officer, all in accordance with the provisions of Chapter 1207, Texas Government Code, as amended ("Chapter 1207") and Chapter 1371, Texas Government Code, as amended ("Chapter 1371"); and

WHEREAS, Chapter 1207 and Chapter 1371 authorize the City to issue one or more series of refunding bonds and to deposit the proceeds from the sale thereof together with any other available funds or resources, directly with a place of payment (paying agent) for the Refunded Obligations or with a trust company or commercial bank that does not act as depository for the City, and such deposit, if made before such payment dates, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Obligations; and

WHEREAS, Chapter 1207 further authorizes the City to enter into an escrow agreement with a paying agent for the Refunded Obligations or with a trust company or commercial bank that does not act as depository for the City with respect to the safekeeping, investment, reinvestment, administration and disposition of any such deposit, upon such terms and conditions as the City and

such escrow agent may agree, provided that such deposits may be invested and reinvested in Defeasance Securities, as defined herein; and

WHEREAS, the Escrow Agreement hereinafter authorized, constitutes an agreement of the kind authorized and permitted by Chapter 1207; and

WHEREAS, all the Refunded Obligations mature or are subject to redemption prior to maturity within 20 years of the date of the bonds hereinafter authorized: and

WHEREAS, for such purposes, the City deems it necessary to issue Parity Debt, as hereinafter defined, pursuant to this "Fifth Supplemental Ordinance to the Master Ordinance establishing the City of Round Rock, Texas Utility System Revenue Financing Program" (this "Fifth Supplement"); and

WHEREAS, the City further finds and determines that all terms and conditions for the issuance of the refunding bonds herein authorized as Parity Debt have been or can be met and satisfied; and

WHEREAS, the bonds authorized to be issued by this Fifth Supplement are to be issued and delivered pursuant to the Constitution and laws of the State of Texas, including Chapters 1207 and 1371.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROUND ROCK, TEXAS THAT:

ARTICLE I

BONDS ISSUED UNDER UTILITY SYSTEM REVENUE FINANCING PROGRAM

Section 1.01. DEFINITIONS. (a) Definitions. The capitalized terms used herein (except in the FORM OF BONDS set forth in Exhibit "B" hereto) and not otherwise defined shall have the meanings given in the Master Ordinance or in Exhibit "A" to this Fifth Supplement. The recitals to this Fifth Supplement and the exhibits hereto are incorporated herein and made a part hereof for all purposes.

(b) Construction of Terms. If appropriate in the context of this Fifth Supplement, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, words of the masculine, feminine, or neuter gender shall be considered to include the other genders, and words importing persons shall include firms, associations, and corporations.

Section 1.02. ESTABLISHMENT OF FINANCING PROGRAM AND ISSUANCE OF PARITY DEBT. (a) Fifth Supplement. By adoption of the Master Ordinance, the City has established the City of Round Rock, Texas Utility System Revenue Financing Program for the purpose of enabling the City to provide for the financing of utility system projects authorized by the Enabling Act and any other applicable provisions of State law pursuant to which, subject to

the payment of maintenance and operating expenses, the City may issue and enter into obligations, including bonds and other types of obligations, secured by and payable from a pledge of and lien on all or part of the Security. This Fifth Supplement provides for the authorization, form, characteristics, provisions of payment and redemption, and security of the Bonds. This Fifth Supplement is subject to the terms of the Master Ordinance and the terms of the Master Ordinance are incorporated herein by reference and as such are made a part hereof for all purposes.

(b) Bonds Are Parity Debt. As required by Section 7 of the Master Ordinance governing the issuance of Parity Debt such as the Bonds, the City hereby finds that, upon the issuance of the Bonds, the Security will be sufficient to meet the financial obligations relating to the Financing Program, including Security in amounts sufficient to satisfy the Annual Debt Service Requirements of the Financing Program. The Bonds are hereby declared to be Parity Debt under the Master Ordinance.

Section 1.03. FIFTH SUPPLEMENT TO CONSTITUTE A CONTRACT; EQUAL SECURITY. In consideration of the acceptance of the Bonds by those who shall hold the same from time to time, this Fifth Supplement shall be deemed to be and shall constitute a contract between the City and the Owners from time to time of the Bonds, and the pledge made in this Fifth Supplement by the City and the covenants and agreements set forth in this Fifth Supplement to be performed by the City shall be for the equal and proportionate benefit, security, and protection of all Owners from time to time of the Bonds, without preference, priority, or distinction as to security or otherwise of any of the Bonds authorized hereunder over any of the other Bonds 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 Fifth Supplement and the Master Ordinance.

Section 1.04. LIMITATION OF BENEFITS WITH RESPECT TO THIS FIFTH SUPPLEMENT. With the exception of the rights or benefits herein expressly conferred, nothing expressed or contained herein or implied from the provisions of this Fifth Supplement or the Bonds is intended or should be construed to confer upon or give to any person other than the City, the Owners, and the Paying Agent/Registrar, any legal or equitable right, remedy, or claim under or by reason of or in respect to this Fifth Supplement or any covenant, condition, stipulation, promise, agreement, or provision herein contained. This Fifth Supplement 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 City, the Owners, and the Paying Agent/Registrar as herein and therein provided.

ARTICLE II

BOND AUTHORIZATION AND SPECIFICATIONS

Section 2.01. AMOUNT, PURPOSE AND DESIGNATION OF THE BONDS. The Bonds designated "**CITY OF ROUND ROCK, TEXAS UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 20__**" (the "Bonds") are hereby authorized to be issued pursuant to this Fifth Supplement in the aggregate principal amount not to exceed \$38,000,000 for the purpose of (i) refunding the Refunded Obligations and (ii) paying the costs associated with the issuance of the Bonds. The Bonds shall be designated by the year in which the Bonds are awarded

as set forth by the Pricing Officer in the Pricing Certificate. The Bonds are authorized pursuant to authority conferred by and in conformity with State law, particularly the provisions of the Enabling Act and Chapters 1207 and 1371.

The Bonds will be in the form as provided in Section 2.02, and the FORM OF BONDS in Exhibit "B" to this Fifth Supplement.

Section 2.02. DATE, DENOMINATIONS, NUMBERS, MATURITIES AND TERMS OF BONDS. (a) Terms of Bonds. There initially shall be issued, sold and delivered under this Fifth Supplement fully registered bonds, without interest coupons, which may be in the form of Current Interest Bonds or Premium Compound Interest Bonds, numbered consecutively from R-1 upward, in the case of Current Interest Bonds, and from PC-1 upward, in the case of Premium Compound Interest Bonds (except the Initial Bond delivered to the Attorney General of the State of Texas which shall be numbered T-1 and TPC-1 respectively) payable to the initial registered owner(s) (as designated in subsection (b) of this Section), or to the registered assignee or assignees of said Bonds or any portion or portions thereof (in each case, the "Registered Owner" or the "Owner"), in the denomination of \$5,000 or any integral multiple thereof maturing not later than August 1, 2039, serially or otherwise on the dates, in the years and in the principal amounts, respectively, and dated, all as set forth in the Pricing Certificate to be executed and delivered by the Pricing Officer pursuant to subsection (b) of this section. The authority of the Pricing Officer to execute and deliver a Pricing Certificate for one or more series of the Bonds shall expire at 5:00 P.M. central daylight savings time on November 21, 2018. Bonds priced on or before November 21, 2018 may close after such date.

(b) As authorized by Chapter 1207.007, Texas Government Code, as amended, and Chapter 1371, the Pricing Officer is hereby authorized to act on behalf of the City in selling and delivering one or more series of the Bonds, determining which of the Refundable Obligations shall be refunded and constitute Refunded Obligations under this Fifth Supplement and carrying out the other procedures specified in this Fifth Supplement, including determining and fixing the Bonds as Taxable Bonds or Tax-Exempt Bonds, the date of each series of the Bonds, any additional or different designation or title by which each series of the Bonds shall be known, the price at which one or more series of the Bonds will be sold, the years in which one or more series of the Bonds will mature, the principal amount to mature in each of such years, the aggregate principal amount of Current Interest Bonds and Premium Compound Interest Bonds, the rate or rates of interest to be borne by each such maturity, the interest payment periods, the dates, price, and terms upon and at which each series of the Bonds shall be subject to redemption prior to maturity at the option of the City, as well as any mandatory sinking fund redemption provisions, and all other matters relating to the issuance, sale, and delivery of each series of the Bonds and the refunding of the Refunded Obligations, all of which shall be specified in each Pricing Certificate; provided that (i) the price to be paid for the Bonds shall not be less than 90% of the aggregate original principal amount thereof plus accrued interest thereon from its date to its delivery, (ii) none of the Bonds shall bear interest at a rate, or yield in the case of Premium Compound Interest Bonds, greater than the maximum authorized by law, and (iii) the refunding must produce a net present value debt service savings of at least 3.0% of the principal amount of the Refunded Obligations, net of any City contribution. In establishing the aggregate principal amount of the Bonds, the Pricing Officer shall establish an amount not to exceed the amount authorized in Section 2.01, which shall

be sufficient to provide for the purposes for which the Bonds are authorized and to pay the costs of issuing the Bonds.

In satisfaction of Section 1201.022(a)(3), Texas Government Code, the City Council hereby determines that the delegation of the authority to the Pricing Officer to approve the method of sale and final terms and conditions of each series of the Bonds as set forth in this Fifth Supplement is, and the decisions made by the Pricing Officer pursuant to such delegated authority and incorporated in each Pricing Certificate will be, in the City's best interest and shall have the same force and effect as if such determination were made by the City Council, and the Pricing Officer is hereby authorized to make and include in each Pricing Certificate an appropriate finding to that effect. Each Pricing Certificate is hereby incorporated by reference into and made a part of this Fifth Supplement.

(c) To achieve advantageous borrowing costs for the City, each series of the Bonds shall be sold on a negotiated, placement or competitive basis as determined by the Pricing Officer in each Pricing Certificate. In determining whether to sell each series of the Bonds by a negotiated, placement or competitive sale, the Pricing Officer shall take into account the financial condition of the City, any material disclosure issues which might exist at the time, the market conditions expected at the time of the sale and any other matters which, in the judgment of the Pricing Officer, might affect the net borrowing costs on each series of the Bonds.

If the Pricing Officer determines that a series of the Bonds should be sold at a competitive sale, the Pricing Officer shall cause to be prepared a notice of sale and official statement in such manner as the Pricing Officer deems appropriate, to make the notice of sale and official statement available to those institutions and firms wishing to submit a bid for the Bonds, to receive such bids, and to sell the Bonds to the bidder submitting the best bid in accordance with the provisions of the notice of sale.

If the Pricing Officer determines that a Series of the Bonds should be sold by a negotiated sale or placement, the Pricing Officer shall designate the placement purchaser or the senior managing underwriter for the Bonds and such additional investment banking firms as the Pricing Officer deems appropriate to assure that the Bonds are sold on the most advantageous terms. The Pricing Officer, acting for and on behalf of the City, is authorized to enter into and carry out a bond purchase contract or other agreement for the Bonds to be sold by negotiated sale or placement at such price, with and subject to such terms as determined by the Pricing Officer pursuant to subsection (b) above. Each bond purchase contract or other agreement shall be substantially in the form and substance previously approved by the City in connection with previous refunding with such changes as the Pricing Officer executing the same may approve, such approval to be received by execution of such contract or agreement including any provisions determined to be necessary by the Pricing Officer and Bond Counsel in the event that such Series of Bonds is being sold in a forward delivery transaction.

(d) The Current Interest Bonds shall bear interest calculated on the basis of a 360-day year composed of twelve 30-day months from the dates specified in the FORM OF BONDS set forth in this Fifth Supplement to their respective dates of maturity or redemption at the rates per annum set forth in the Pricing Certificate.

The Premium Compound Interest Bonds shall bear interest from the Issuance Date, calculated on the basis of a 360-day year composed of twelve 30-day months (subject to rounding to the Compounded Amounts thereof), compounded on the Compounding Dates as set forth in the Pricing Certificate, and payable, together with the principal amount thereof, in the manner provided in the Form of Bonds at the rates set forth in the Pricing Certificate. Attached to the Pricing Certificate, if Premium Compound Interest Bonds are to be issued, shall be the Accretion Table. The Accreted Value with respect to any date other than a Compounding Date is the amount set forth on the Accretion Table with respect to the last preceding Compounding Date, plus the portion of the difference between such amount and the amount set forth on the Accretion Table with respect to the next succeeding Compounding Date that the number of days (based on 30-day months) from such last preceding Compounding Date to the date for which such determination is being calculated bears to the total number of days (based on 30-day months) from such last preceding Compounding Date to the next succeeding Compounding Date.

(e) 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, and (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 BONDS set forth in Exhibit "B" to this Fifth Supplement and in the Pricing Certificate.

(f) Payments on Holidays. In the event that any date for payment of the principal of or interest on the Bonds is a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment will be the next succeeding day that is not a Saturday, Sunday, legal holiday, or day on which such banking institutions are authorized to close. Payment on such later date will not increase the amount of interest due and will have the same force and effect as if made on the original date payment was due.

Section 2.03. PAYMENT OF BONDS; PAYING AGENT/REGISTRAR. The principal of, premium, if any, and the interest on the Bonds shall be payable, without exchange or collection charges to the Owner thereof, in any coin or currency of the United States of America that at the time of payment is legal tender for the payment of public and private debts.

The Pricing Officer in the Pricing Certificate shall select an eligible institution to serve as paying agent/registrar for the Bonds (the "Paying Agent/Registrar"). By accepting the appointment as Paying Agent/Registrar, the Paying Agent/Registrar acknowledges receipt of copies of the Master Ordinance and this Fifth Supplement, and is deemed to have agreed to the provisions thereof and hereof.

The City agrees and covenants to cause to be kept and maintained at the designated office of the Paying Agent/Registrar a Security Register, all as provided herein, in accordance with the terms and provisions of the Paying Agent/Registrar Agreement and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. In addition, to the extent

required by law, the City covenants to cause to be kept and maintained the Security Register or a copy thereof in the State.

The City expressly reserves the right to appoint one or more successor Paying Agent/Registrars, by filing with the Paying Agent/Registrar a certified copy of a resolution or minute order of the City making such appointment. The City further expressly reserves the right to terminate the appointment of the Paying Agent/Registrar by filing a certified copy of a resolution of the City giving notice of the City's termination of the City's agreement with such Paying Agent/Registrar and appointing a successor. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a bank, trust company, financial institution, or other entity duly qualified and legally authorized to serve as and perform the duties and services of Paying Agent/Registrar for the Bonds. If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Security Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar, the City agrees promptly to cause a written notice thereof to be sent to each Owner by United States mail, first-class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

The principal of, premium, if any, and interest on the Bonds due and payable by reason of maturity, redemption, or otherwise, shall be payable only to the Owner thereof appearing on the Security Register, and, to the extent permitted by law, neither the City nor the Paying Agent/Registrar, nor any agent of either, shall be affected by notice to the contrary.

Principal of, and premium, if any, on the Bonds shall be payable only upon the presentation and surrender of said Bonds to the Paying Agent/Registrar at its designated office. Interest on the Bonds shall be paid to the Owner whose name appears in the Security Register at the close of business on the Record Date and shall be paid (i) by check sent on or prior to the appropriate date of payment by United States mail, first-class postage prepaid, by the Paying Agent/Registrar to the address of the Owner appearing in the Security Register on the Record Date or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested in writing by, and at the risk and expense of, the Owner.

In the event of a nonpayment of interest on a scheduled payment date on a Bond, 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 City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (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 Owner of a Bond appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

Section 2.04. REDEMPTION. (a) Generally. The Bonds shall be subject to redemption prior to scheduled maturity at such times and with such provisions as provided in the FORM OF BONDS and the Pricing Certificate.

(b) Notices of Redemption and Defeasance. (i) Unless waived by any Owner of the Bonds to be redeemed, the Chief Financial Officer shall give notice of redemption or defeasance to the Paying Agent/Registrar at least thirty-five (35) days prior to a redemption date in the case of a redemption (unless a lesser period is acceptable to the Paying Agent/Registrar) and on the defeasance date in the case of a defeasance and the Paying Agent/Registrar shall give notice of redemption or of defeasance of Bonds by mail, first-class postage prepaid at least thirty (30) days prior to a redemption date and within thirty (30) days after a defeasance date to each Owner and to the central post office or each registered securities depository and to any national information service that disseminates such 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 central post office or 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 Owner of any Bond who has not sent the Bonds in for redemption sixty (60) days after the redemption date.

(ii) Each notice of redemption or defeasance shall contain a description of the Bonds to be redeemed or defeased including the complete name of the Bonds, the date of issue, the interest rate, the maturity date, the CUSIP number, the certificate numbers, the amounts called of each certificate, the publication or mailing date for the notice, the date of redemption or defeasance, the redemption price, if any, the name of the Paying Agent/Registrar, and the address at which the Bonds may be redeemed or paid, including a contact person telephone number.

(iii) All redemption payments made by the Paying Agent/Registrar to the Owners of the Bonds shall include a CUSIP number relating to each amount paid to such Owner.

The failure of any Owner of the Bonds to receive notice given as provided in this Section 2.04, or any defect therein, shall not affect the validity of any proceedings for the redemption of any Bonds. Any notice mailed as provided in this Section 2.04 shall be conclusively presumed to have been duly given and shall become effective upon mailing, whether or not any Owner receives such notice.

So long as DTC is effecting book-entry transfers of the Bonds, the Paying Agent/Registrar shall provide the notices specified in this Section 2.04 only to DTC. It is expected that DTC shall, in turn, notify its participants and that the participants, in turn, will notify or cause to be notified the beneficial owners. Any failure on the part of DTC or a participant, or failure on the part of a nominee of a beneficial owner of a Bond to notify the beneficial owner of the Bond so affected, shall not affect the validity of the redemption of such Bonds.

(c) Conditional Notice of Redemption. With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by the Master Ordinance or this Fifth Supplement 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

prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the City, 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 City 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 2.05. REGISTRATION; TRANSFER; EXCHANGE OF BONDS; PREDECESSOR BONDS; BOOK-ENTRY-ONLY SYSTEM; SUCCESSOR SECURITIES DEPOSITORY; PAYMENTS TO CEDE & CO. (a) Registration, Transfer, Exchange, and Predecessor Bonds. The Registrar shall obtain, record, and maintain in the Security Register the name and address of each Owner issued under and pursuant to the provisions of this Fifth Supplement. Any Bond may, in accordance with its terms and the terms hereof, be transferred or exchanged for Bonds in Authorized Denominations upon the Security Register by the Owner, in person or by his duly authorized agent, upon surrender of such Bond to the Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Owner or by his duly authorized agent, in form satisfactory to the Registrar.

Upon surrender for transfer of any Bond at the designated office of the Registrar, there shall be registered and delivered in the name of the designated transferee or transferees, one or more new Bonds, executed on behalf of, and furnished by, the City, of Authorized Denominations and having the same Maturity and of a like aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Owner, Bonds may be exchanged for other Bonds of Authorized Denominations and having the same Maturity, bearing the same rate of interest, and of like aggregate principal amount or Maturity Amount and the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the principal office of the Registrar. Whenever any Bonds are so surrendered for exchange, there shall be registered and delivered new Bonds executed on behalf of, and furnished by, the City to the Owner requesting the exchange.

All Bonds issued upon any transfer or exchange of Bonds shall be delivered at the principal office of the Registrar or sent by United States mail, first-class, postage prepaid to the Owners or the designee thereof, and, upon the registration and delivery thereof, the same shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under the Master Ordinance and this Fifth Supplement, as the Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Owner, except as otherwise herein provided, and except that the Registrar shall require payment by the Owner requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds canceled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Bonds," evidencing all or a portion, as the case may be, of the same debt evidenced by the new Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Bonds" shall include any mutilated Bond that is surrendered to the Paying Agent/Registrar or any Bond for which satisfactory evidence of the loss of which has been received by the City and the Paying Agent/Registrar and, in either case, in lieu of which a Bond or Bonds have been registered and delivered pursuant to Section 3.05 hereof.

Neither the City nor the Registrar shall be required to issue or transfer to an assignee of a Owner any Bond called for redemption, in whole or in part, within forty-five (45) days of the date fixed for the redemption of such Bond; provided, however, such limitation of transfer shall not be applicable to an exchange by the Owner of the unredeemed balance of a Bond called for redemption in part.

(b) Ownership of Bonds. The entity in whose name any Bond shall be registered in the Security Register at any time shall be deemed and treated as the absolute Owner thereof for all purposes of this Fifth Supplement, whether or not such Bond shall be overdue, and, to the extent permitted by law, the City 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 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.

(c) Book-Entry-Only System. The Bonds issued in exchange for the Initial Bond for issued as provided in Section 2.06 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 this subsection (c) 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 City 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 in the Bonds. Without limiting the immediately preceding sentence, the City 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 Owner as shown on the Security Register, 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 Owner as shown on the Security Register, of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Fifth Supplement to the contrary but to the extent permitted by law, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Security Register 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 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 Owners, as shown in the Security Register

as provided in this Fifth Supplement, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City'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 Owner, as shown in the Security Register, shall receive a Bond certificate evidencing the obligation of the City to make payments of principal, premium, if any, and interest pursuant to this Fifth Supplement. 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 Fifth Supplement with respect to interest checks being mailed to the Owner at the close of business on the Record Date the words "Cede & Co." in this Fifth Supplement shall refer to such new nominee of DTC.

(d) Successor Securities Depository; Transfers Outside Book-Entry-Only System. In the event that the City determines to discontinue the book-entry-only system through DTC or a successor or DTC determines to discontinue providing its services with respect to the Bonds, the City shall either (i) appoint a successor securities depository, qualified to act as such under Section 17(a) 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 Security Register 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 Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Fifth Supplement.

(e) Payments to Cede & Co. Notwithstanding any other provision of this Fifth Supplement 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 City to DTC.

(f) Blanket Issuer Letter of Representations. The City heretofore has executed and delivered to DTC a "Blanket Issuer Letter of Representations" with respect to the utilization by the City of DTC's book-entry-only system and the City intends to utilize such book-entry-only system in connection with the Bonds.

Section 2.06. INITIAL BOND. The Bonds shall initially be issued as a fully registered bond, being one bond (the "Initial Bond"). The Initial Bond shall be registered in the name of the purchaser of the Bonds. The Initial Bond shall be submitted to the Office of the Attorney General of the State for approval and registration by the Office of the Comptroller of Public Accounts of the State and delivered to such initial purchaser set forth in Section 2.08 of this Fifth Supplement. Immediately after the delivery of the Initial Bond on the Issuance Date, the Registrar shall cancel the Initial Bond and exchange therefor Bonds 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 Section 2.05(d), all of the Outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

Section 2.07. FORM OF BONDS. The Bonds (including Initial Bonds), the Registration Certificate of the Comptroller of Public Accounts of the State or the Authentication Certificate, and the form of Assignment to be printed on each of the Bonds shall be substantially in the forms set forth in Exhibit "B" to this Fifth Supplement with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Fifth Supplement, may have such letters, numbers, or other marks of identification and such legends and endorsements (including any reproduction of an opinion of counsel and information regarding the issuance of any bond insurance policy) thereon as may, consistently herewith, be established by the City or determined by the officers executing such Bonds as evidenced by their execution thereof. Any portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The Bonds shall be typewritten, photocopied, printed, lithographed, engraved, or produced in any other similar manner, all as determined by the officers executing such Bonds as evidenced by their execution thereof.

ARTICLE III

EXECUTION; REPLACEMENT OF BONDS; AND BOND INSURANCE

Section 3.01. EXECUTION AND REGISTRATION. The Bonds shall be executed on behalf of the City by the Mayor under its seal reproduced or impressed thereon and attested by the City Clerk. The signature of said officers on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City as of their authorization shall be deemed to be duly executed on behalf of the City, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of delivery of the Bonds to the initial purchaser(s) and with respect to Bonds delivered in subsequent exchanges and transfers, all as authorized and provided in Chapter 1201, Texas Government Code, as amended.

No Bond shall be entitled to any right or benefit under this Fifth Supplement, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Exhibit "B" to this Fifth Supplement, executed by the Comptroller of Public Accounts of the State or its duly authorized agent by manual signature, or the Paying Agent/Registrar's Authentication Certificate substantially in the form provided in Exhibit "B" to this Fifth Supplement executed by the manual signature of an authorized officer or employee of the Registrar, and either such certificate duly signed upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly certified, registered, and delivered.

Section 3.02. CONTROL AND CUSTODY OF BONDS. The Chief Financial Officer shall be and is hereby authorized to take and have charge of all necessary orders and records pending investigation and examination by the Attorney General of the State, including the printing and supply of printed Bonds, and shall take and have charge and control of the Initial Bond pending

the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts, and the delivery thereof to the Purchaser.

Furthermore, each Authorized Representative is hereby authorized and directed to furnish and execute such documents relating to the Utility System, the City and its financial affairs as may be necessary for the issuance of the Bonds, the approval of the Attorney General, and the registration by the Comptroller of Public Accounts and, together with the City's Bond Counsel and the Paying Agent/Registrar, make the necessary arrangements for the delivery of the Initial Bond to the Purchaser and the initial exchange thereof for Bonds other than the Initial Bond.

Section 3.03. PRINTED OPINION. The Purchaser's obligation to accept delivery of the Bonds is subject to the Purchaser being furnished the final opinion of McCall, Parkhurst & Horton L.L.P. approving the Bonds as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for the Bonds. If bond insurance is obtained for the Bonds, the Bonds may bear an appropriate insurance legend.

Section 3.04. CUSIP NUMBERS. CUSIP numbers may be printed or typed on the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving the Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the Bonds.

Section 3.05. MUTILATED, DESTROYED, LOST, AND STOLEN BONDS. If (1) any mutilated Bond is surrendered to the Paying Agent/Registrar, or the City and the Paying Agent/Registrar receive evidence to their satisfaction of the destruction, loss, or theft of any Bond, and (2) there is delivered to the City and the Paying Agent/Registrar such security or indemnity as may be required to save each of them harmless, then, in the absence of notice to the City or the Paying Agent/Registrar that such Bond has been acquired by a bona fide purchaser, the City shall execute and, upon its request, the Paying Agent/Registrar shall register and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost, or stolen Bond, a new Bond of the same Maturity and of like tenor and principal amount, bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost, or stolen Bond has become or is about to become due and payable, the City in its discretion may, instead of issuing a new Bond, pay such Bond and the interest due thereon to the date of payment.

Upon the issuance of any new Bond under this Section, the City may require payment by the Owner of a sum sufficient to cover any tax or other governmental charge imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent/Registrar) connected therewith.

Every new Bond issued pursuant to this Section in lieu of any mutilated, destroyed, lost, or stolen Bond shall constitute a replacement of the prior obligation of the City, whether or not the mutilated, destroyed, lost, or stolen Bond shall be at any time enforceable by anyone, and shall be

entitled to all the benefits of this Fifth Supplement equally and ratably with all other Outstanding Bonds.

Section 3.06. BOND INSURANCE. In connection with the sale of the Bonds, the City may obtain municipal bond insurance policies from one or more recognized municipal bond insurance organizations (the "Bond Insurer" or "Bond Insurers") to guarantee the full and complete payment required to be made by or on behalf of the City on the Bonds. The Pricing Officer is hereby authorized to sign a commitment letter or insurance agreement with the Bond Insurer or Bond Insurers and to pay the premium for the bond insurance policies at the time of the delivery of the Bonds to the underwriter 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 the Pricing Officer may deem appropriate. Printing on the Bonds covered by the bond insurance policies a statement describing such insurance, in form and substance satisfactory to the Bond Insurer and the Pricing Officer, is hereby approved and authorized. The Pricing Certificate may contain provisions related to the bond insurance policies, including payment provisions thereunder, and the rights of the Bond Insurer or Insurers, and any such provisions shall be read and interpreted as an integral part of this Fifth Supplement.

ARTICLE IV

PAYMENTS, REBATE FUND AND RESERVE FUND

Section 4.01. PAYMENTS. (a) Accrued Interest. Immediately after the delivery of the Bonds the City shall deposit any accrued interest to the credit of the Interest and Sinking Account to be held to pay interest on such Bonds.

(b) Debt Service Payments. Semiannually on or before each principal or interest payment date while any of the Bonds are outstanding and unpaid, commencing on the first interest payment date for the Bonds, the City shall make available from the Interest and Sinking Account to the Paying Agent/Registrar, money sufficient to pay such interest on and such principal of the Bonds as will accrue or mature, or be subject to mandatory redemption prior to maturity, on such principal, redemption, or interest payment date. The Paying Agent/Registrar shall cancel all paid Bonds and shall furnish the City with an appropriate certificate of cancellation.

Section 4.02. REBATE ACCOUNT. A separate and special account to be known as the Rebate Account is hereby established by the City pursuant to the requirements of Section 148(f) of the Code and the tax covenants of the City contained in Section 5.01 of this Fifth Supplement for the benefit of the United States of America and the City, as their interests may appear pursuant to this Fifth Supplement. Such amounts shall be deposited therein and withdrawn therefrom as is necessary to comply with the provisions of Section 5.01. Any moneys held within the Rebate Account shall not constitute Security under the Master Ordinance.

Section 4.03. RESERVE ACCOUNT. (a) To accumulate and maintain a reserve for the payment of the Bonds equal to the Average Annual Debt Service Requirements of the Bonds (calculated by the City at the beginning of each Fiscal Year) (the "Required Reserve Amount"), the Reserve Account has been established and shall be maintained by the City. Earnings and

income derived from the investment of amounts held for the credit of the Reserve Account shall be retained in the Reserve Account until the Reserve Account contains the Required Reserve Amount; thereafter, such earnings and income shall be deposited to the credit of the System Account. The City shall deposit and credit to the Reserve Account amounts required to maintain the balance in the Reserve Account in an amount equal to the Required Reserve Amount by making monthly deposits and credits in amounts equal to not less than 1/60th of the Required Reserve Amount or by the deposit of a Reserve Account Obligation. There shall be deposited into the Reserve Account any Reserve Account Obligations so designated by the City. All funds, investments and Reserve Account Obligations on deposit and credited to the Reserve Account shall be used solely for (i) the payment of the principal of and interest on the Bonds, when and to the extent other funds available for such purposes are insufficient, (ii) to make Reserve Account Obligation Payments and (iii) to retire the last Stated Maturity or Stated Maturities of or interest on the Bonds. The Reserve Account is solely for the benefit of this series of Bonds and is not available to pay Annual Debt Service Requirements on any other Parity Debt.

(b) When and for so long as the cash, investments and Reserve Account Obligations in the Reserve Account equal the Required Reserve Amount, no deposits need be made to the credit of the Reserve Account; but, if and when the Reserve Account at any time contains less than the Required Reserve Amount, the City covenants and agrees that the City shall cure the deficiency in the Reserve Account by resuming the deposits to such Account from the Pledged Revenues by monthly deposits and credits in amounts equal to not less than 1/60th of the Required Reserve Amount with any such deficiency payments being made on or before each interest payment date until the Required Reserve Amount has been fully restored; provided, however, that no such deposits shall be made into the Reserve Account during any six month period beginning on an interest payment date until there has been deposited into the Interest and Sinking Account the full amount required to be deposited therein by the next following semi-annual payment date, as the case may be. In addition, in the event that a portion of the Required Reserve Amount is represented by a Reserve Account Obligation, the Required Reserve Amount shall be restored as soon as possible from monthly deposits of Pledged Revenues on deposit in the System Account, but subject to making the full deposits and credits to the Interest and Sinking Account required to be made by the next following interest payment date, as the case may be. The City further covenants and agrees that, subject only to the prior deposits and credits to be made to the Interest and Sinking Account, the Pledged Revenues shall be applied and appropriated and used to establish and maintain the Required Reserve Amount, including by paying Reserve Account Obligation Payments when due, and to cure any deficiency in such amounts as required by the terms of this Fifth Supplement.

During such time as the Reserve Account contains the Required Reserve Amount, the obligation to maintain the Required Reserve Amount has been suspended pursuant to subsection (d) below or any cash is replaced with a Reserve Account Obligation pursuant to subsection (c) below, the City may, at its option, withdraw all surplus funds in the Reserve Account and deposit such surplus in the Interest and Sinking Account or otherwise use such amount in any manner permitted by law unless such surplus is required to be rebated in which case such event shall be deposited into the Rebate Account.

(c) A Reserve Account Obligation issued in an amount equal to all or part of the Required Reserve Amount for the Bonds may be used in lieu of depositing cash into the Reserve Account. In addition, a Reserve Account Obligation may be substituted for monies and investments in the Reserve Account if the substitution of the Reserve Account Obligation will not, in and of itself, cause any ratings then assigned to the Bonds by any rating agency to be lowered and the ordinance authorizing the substitution of the Reserve Account Obligation for all or part of the Required Reserve Amount contains a finding that such substitution is cost effective.

(d) Notwithstanding anything to the contrary contained herein, the requirement set forth in subsection (a) above to maintain the Required Reserve Amount in the Reserve Account shall be suspended for such time as the Net Revenues for each Fiscal Year are equal to at least 1.35 times the average Annual Debt Service Requirements. In the event that the Net Revenues for any Fiscal Year are less than 1.35 times the average Annual Debt Service Requirements, the City will be required to commence making Required Reserve Account Deposits, as provided in subsection (b) above, and to continue such Required Reserve Account Deposits until the earlier of (i) such time as the Reserve Account contains the Required Reserve Amount or (ii) the Net Revenues in each of two consecutive years have been equal to not less than 1.35 times the average Annual Debt Service Requirements. Notwithstanding the provisions of Section 4.03(a) of this section, if the City commences deposits in the Reserve Account and later is authorized to suspend payments into the fund under this section any funds so accumulated may, at the discretion of the City: (i) remain in the Reserve Account or (ii) be used for any lawful purpose including additional projects or to pay debt service on the Bonds.

(e) A Reserve Account Obligation permitted under (a) above, must be in the form of a surety bond or insurance policy meeting the requirements described below.

(1) (i) A surety bond or insurance policy issued to the Paying Agent/Registrar, as agent of the Holders, by a company licensed to issue an insurance policy guaranteeing the timely payment of debt service on the Bonds (a "municipal bond insurer") if the claims paying ability of the issuer thereof shall be rated "AAA" or "Aaa", respectively, by S&P and Moody's, or (ii) a surety bond or insurance policy issued to the Paying Agent/Registrar, as agent of the Holders, by an entity other than a municipal bond insurer, if the form and substance of such instrument and the issuer thereof shall be approved in writing by each Bond Insurer of record, if any.

(2) The obligation to reimburse the issuer of a Reserve Account Obligation for any claims or draws upon such Reserve Account Obligation in accordance with its terms, including expenses incurred in connection with such claims or draws, to the extent permitted by law, (a Reserve Account Obligation Payment) shall be made from the deposits made to the Reserve Account as provided in this Section. The Reserve Account Obligation shall provide for a revolving feature under which the amount available thereunder will be reinstated to the extent of any reimbursement of draws or claims paid. If the revolving feature is suspended or terminated for any reason, the right of the issuer of the Reserve Account Obligation to reimbursement will be subordinated to the cash replenishment of the Reserve Account to an amount equal to the difference between the full original amount available under the Reserve Account Obligation and the amount then available for further

draws or claims. In the event (a) the issuer of a Reserve Account Obligation becomes insolvent, or (b) the issuer of a Reserve Account Obligation defaults in its payment obligations thereunder, or (c) the claims paying ability of the issuer of the insurance policy or surety bond falls below "AAA" or "Aaa", by S&P and Moody's, respectively, the obligation to reimburse the issuer of the Reserve Account Obligation shall be subordinated to the cash replenishment of the Reserve Account.

(3) In the event (a) the revolving reinstatement feature described in the preceding paragraph is suspended or terminated, or (b) the rating of the claims paying ability of the issuer of the surety bond or insurance policy falls below "AAA" or "Aaa", by S&P and Moody's, respectively, the City shall either (i) deposit into the Reserve Account, in accordance with this Section, an amount sufficient to cause the cash or investments credited to the Reserve Account to accumulate to the Required Reserve Amount, or (ii) replace such instrument with a surety bond or insurance policy meeting the requirements of 1 and 2 above, within six months of such occurrence. In the event (a) the rating of the claims-paying ability of the issuer of the surety bond or insurance policy falls below "A" by S&P and Moody's, or (b) the issuer of the Reserve Account Obligation defaults in its payment obligations hereunder, or (c) the issuer of the Reserve Account Obligation becomes insolvent, the City shall either (i) deposit into the Reserve Account, in accordance with this Section, amounts sufficient to cause the cash or investments on deposit in the Reserve Account to accumulate to the Required Reserve Amount, or (ii) replace such instrument with a surety bond or insurance policy meeting the requirements of 1 and 2 above within six months of such occurrence.

(4) The Paying Agent/Registrar shall ascertain the necessity for a claim or draw upon any Reserve Account Obligation and provide notice to the issuer of the Reserve Account Obligation in accordance with its terms not later than three days (or such appropriate time period as will, when combined with the timing of required payment under the Reserve Account Obligation, ensure payment under the Reserve Account Obligation on or before the interest payment date) prior to each date upon which the principal of or interest on the Parity Debt will be due.

It is recognized that a Reserve Account Obligation may be issued which is payable only with respect to a part of the Bonds with the remainder of the Required Reserve Amount being satisfied by monies and investments and in that case any draws upon the Reserve Account will have to be made on a pro-rata basis. Therefore, (i) draws upon one or more such Reserve Account Obligations shall be made on a pro-rata basis with cash and investments available in the Reserve Account and (ii) deposits and credits to the Reserve Account to restore it to the Required Reserve Amount shall be utilized on a pro-rata basis to pay Reserve Account Obligation Payments to reimburse the issuers of the Reserve Account Obligations, thus restoring that part of the Required Reserve Amount, and to restore with cash and investments the balance of the Required Reserve Amount.

ARTICLE V

COVENANTS REGARDING TAX EXEMPTION

Section 5.01. COVENANTS REGARDING TAX EXEMPTION ON THE TAX-EXEMPT BONDS. (a) Covenants. The City covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Tax-Exempt Bonds as obligations described in section 103 of the 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 City covenants as follows:

(1) to use all proceeds of the Tax-Exempt Bonds for the payment of principal, interest and redemption premium, if any, on the Refunded Obligations;

(2) to take any action to assure that no more than ten percent (10%) of the proceeds of the Bonds or the Refunded Obligations 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 Code or, if more than ten percent (10%) of the proceeds of the Bonds or the Refunded Obligations or the projects financed or refinanced therewith are so used, such amounts, whether or not received by the City, with respect to such private business use, do not, under the terms of this Fifth Supplement or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than ten percent (10%) of the debt service on the Bonds, in contravention of section 141(b)(2) of the Code;

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

(4) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or five percent (5%) 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 Code;

(5) 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 Code;

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

(7) 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 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 for current refundings and 30 days or less for advance refundings until such proceeds are needed for the purpose for which the Bonds are issued,

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

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

(8) 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 Code (relating to arbitrage) and, to the extent applicable, section 149(d) of the Code (relating to advance refundings); and

(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 Code and to pay to the United States of America, not later than 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 Code.

(b) Rebate Account. In order to facilitate compliance with the above covenant in subsection (a)(9), a "Rebate Account" is hereby established by the City 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 Account is established for the additional purpose of compliance with section 148 of the Code.

(c) Proceeds. The City 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 City that the covenants contained herein are intended to assure compliance with the 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 Code, as applicable to the Bonds, the City 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 Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Bonds, the City 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 Code. In furtherance of such intention, the City hereby authorizes and directs the Chief

Financial Officer to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the City, which may be permitted by the Code as are consistent with the purpose for the issuance of the Bonds. This Fifth Supplement is intended to satisfy the official intent requirements set forth in Section 1.150-2 of the Treasury Regulations.

Section 5.02. TAXABLE BONDS. In connection with the issuance of any Series of Taxable Bonds, the Pricing Officer may establish additional accounts or funds as necessary to distinguish Taxable Bond proceeds from Tax-Exempt Bond proceeds.

Section 5.03. DISPOSITION OF PROJECT. The City covenants that the property financed or refinanced by the Refunded Obligations will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless the City 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 the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the City shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

ARTICLE VI

AMENDMENTS AND MODIFICATIONS

Section 6.01. AMENDMENTS OR MODIFICATIONS WITHOUT CONSENT OF OWNERS OF BONDS. Subject to the provisions of the Master Ordinance, this Fifth Supplement and the rights and obligations of the City and of the Owners of the Outstanding Bonds may be modified or amended at any time without notice to or the consent of any Owner of the Bonds or any other Parity Debt, solely for any one or more of the following purposes:

- (i) To add to the covenants and agreements of the City contained in this Fifth Supplement, other covenants and agreements thereafter to be observed, or to surrender any right or power reserved to or conferred upon the City in this Fifth Supplement;
- (ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this Fifth Supplement, upon receipt by the City of an Opinion of Counsel, that the same is needed for such purpose, and will more clearly express the intent of this Fifth Supplement;
- (iii) To supplement the Security for the Bonds;
- (iv) To make such other changes in the provisions hereof, as the City may deem necessary or desirable and which shall not, in the judgment of the

City, materially adversely affect the interests of the Owners of the Outstanding Bonds;

(v) To make any changes or amendments requested by the State Attorney General's Office as a condition to the approval of the Bonds, which changes or amendments do not, in the judgment of the City, materially adversely affect the interests of the Owners of the Outstanding Bonds; or

(vi) 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 City, materially adversely affect the interests of the Owners of the Outstanding Bonds.

Section 6.02. AMENDMENTS OR MODIFICATIONS WITH CONSENT OF OWNERS OF BONDS. (a) Amendments. Subject to the other provisions of this Fifth Supplement, the Master Ordinance and the consent of the Bond Insurer, if any, the Owners of Outstanding Bonds aggregating a majority in Outstanding Principal Amount shall have the right from time to time to approve any amendment, other than amendments described in Section 6.01 hereof, to this Fifth Supplement that may be deemed necessary or desirable by the City, 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 Fifth Supplement or in the Bonds so as to:

- (i) Make any change in the maturity of the Outstanding Bonds;
- (ii) Reduce the rate of interest borne by Outstanding Bonds;
- (iii) Reduce the amount of the principal payable on Outstanding Bonds;
- (iv) Modify the terms of payment of principal of or interest on the Outstanding Bonds, or impose any conditions with respect to such payment;
- (v) Affect the rights of the Owners of less than all Bonds then Outstanding; or
- (vi) Change the minimum percentage of the Outstanding Principal Amount of Bonds necessary for consent to such amendment.

(b) Notice. If at any time the City shall desire to amend this Fifth Supplement pursuant to Subsection (a), the City 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 (including, but not limited to, The Bond Buyer or The Wall Street Journal) or in the State (including, but not limited to, The Texas Bond Reporter), once during each calendar week for at least two successive calendar weeks or disseminated by electronic means customarily used to

convey notices of redemption. 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 City gives or causes to be given such notice in writing to each Owner of Bonds. A copy of such notice shall be provided in writing to each rating agency maintaining a rating on the Bonds and to the Bond Insurer, if any.

(c) Receipt of Consents. Whenever at any time the City shall receive an instrument or instruments executed by all of the Owners or the Owners of Outstanding Bonds aggregating a majority in Outstanding Principal Amount, as appropriate, which instrument or instruments shall refer to the proposed amendment described in said notice and which consent to and approve such amendment in substantially the form of the copy thereof on file as aforesaid, the City may adopt the amendatory resolution in substantially the same form.

(d) Consent Irrevocable. Any consent given by any Owner 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 Bond 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 Paying Agent/Registrar and the City, but such revocation shall not be effective if the Owners of Outstanding Bonds aggregating a majority in Outstanding Principal Amount prior to the attempted revocation consented to and approved the amendment. Notwithstanding the foregoing, any consent given at the time of and in connection with the initial purchase of Bonds shall be irrevocable.

(e) 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 Security Register 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.

Section 6.03. EFFECT OF AMENDMENTS. Upon the adoption by the City of any resolution to amend this Fifth Supplement pursuant to the provisions of this Article, this Fifth Supplement shall be deemed to be amended in accordance with the amendatory resolution, and the respective rights, duties, and obligations of the City and all the Owners of Outstanding Bonds shall thereafter be determined, exercised, and enforced under the Master Ordinance and this Fifth Supplement, as amended.

ARTICLE VII

MISCELLANEOUS

Section 7.01. DISPOSITION OF BOND PROCEEDS AND OTHER FUNDS.

Proceeds from the sale of the Bonds shall, promptly upon receipt thereof, be applied by the Chief Financial Officer as follows:

- (i) any underwriting discount or fees may be retained by and/or wired directly to such parties;
- (ii) any accrued interest shall be deposited as provided in Section 4.01;
- (iii) an amount sufficient to provide for the refunding of the Refunded Obligations shall be deposited with the Escrow Agent pursuant to the Escrow Agreement to refund the Refunded Obligations; and
- (iv) an amount sufficient to pay the remaining costs of issuance of the Bonds shall be deposited in the Bond Proceeds Account to be used for such purpose.

Any sale proceeds of the Bonds remaining after making all deposits and payments provided for above shall be deposited into the Interest and Sinking Account and applied to the payment of principal of and interest on the Bonds.

Section 7.02. MAILED NOTICES. Except as otherwise required herein, all notices required or authorized to be given to the City or the Paying Agent/Registrar pursuant to this Fifth Supplement shall be in writing and shall be sent by registered or certified mail, postage prepaid, to the following addresses or otherwise given in a manner deemed, in writing, acceptable to the party to receive the notice:

1. to the City:
City of Round Rock, Texas
221 E. Main Street
Round Rock, Texas 78664
Attn: Chief Financial Officer
Telephone: (512) 218-5400
Facsimile: (512) 218-7097
2. to the Paying Agent/Registrar:
As set forth in the Pricing Certificate

or to such other addresses as may from time to time be furnished to the parties, effective upon the receipt of notice thereof given as set forth above.

Section 7.03. DEFEASANCE OF BONDS. (a) Deemed Paid. The principal of and/or the interest and redemption premium, if any, on any Bonds shall be deemed to be Defeased Debt within the meaning of the Master Ordinance, except to the extent provided in subsections (c) and

(e) of this Section, when payment of the principal of such Bonds, 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 for such Bonds 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 City with the Paying Agent/Registrar for such Bonds or an eligible trust company or commercial bank for the payment of its services until all Defeased Debt shall have become due and payable or (3) any combination of (1) and (2). At such time as Bonds shall be deemed to be a Defeased Debt hereunder, as aforesaid, such Bonds and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of the Security as provided in the Master Ordinance and this Fifth Supplement, and such principal and interest shall be payable solely from such money or Defeasance Securities, and thereafter the City 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 Debt, 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 Debt.

(b) Investments. The deposit under clause (ii) of subsection (a) of this Section shall be deemed a payment of Bonds 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 the Master Ordinance and this Fifth Supplement. Any money so deposited with the Paying Agent/Registrar for such Bonds or an eligible trust company or commercial bank as provided in this Section may at the discretion of the City 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 for such Bonds or an eligible trust company or commercial bank pursuant to this Section which is not required for the payment of such Bonds and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the City for deposit to the General Account of the System Account.

(c) Continuing Duty of Paying Agent and Registrar. Notwithstanding any provision of any other Section of this Fifth Supplement 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 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 Debt shall have become due and payable, the Paying Agent/Registrar for such Defeased Debt shall perform the services of Paying Agent/Registrar for such Defeased Debt the same as if they had not been defeased, and the City shall make proper arrangements to provide and pay for such services as required by this Fifth Supplement.

(d) Amendment of this Section. Notwithstanding anything elsewhere in this Fifth Supplement, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar for such Bonds 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 Bonds affected thereby.

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

Section 7.04. PAYING AGENT/REGISTRAR AGREEMENT, ESCROW AGREEMENT AND OFFICIAL STATEMENT. (a) Form. The form of Paying Agent/Registrar Agreement by and between the City and the Paying Agent/Registrar is hereby approved and the Mayor is hereby authorized to execute, and deliver such Paying Agent/Registrar Agreement.

(b) Escrow Agreement. The discharge and defeasance of Refunded Obligations shall be effectuated pursuant to the terms and provisions of an Escrow Agreement, in the form and containing the terms and provisions as shall be approved by a Pricing Officer, including any insertions, additions, deletions, and modifications as may be necessary (a) to carry out the program designed for the City by the underwriters or purchasers, (b) to maximize the City's present value savings and/or to minimize the City's costs of refunding, (c) to comply with all applicable laws and regulations relating to the refunding of the Refunded Obligations and (d) to carry out the other intents and purposes of this Fifth Supplement; and, the Pricing Officer is hereby authorized to select the Escrow Agent and execute and deliver such Escrow Agreement, on behalf of the City, in multiple counterparts.

(c) Redemption Prior to Maturity of Refunded Obligations. To maximize the City's present value savings and to minimize the City's costs of refunding, the City hereby authorizes and directs that certain of the Refunded Obligations shall be called for redemption prior to maturity in the amounts, at the dates and at the redemption prices set forth in each Pricing Certificate, and the Pricing Officer is hereby authorized and directed to take all necessary and appropriate action to give or cause to be given a notice of redemption to the holders or paying agent/registrar, as appropriate, of such Refunded Obligations, in the manner required by the documents authorizing the issuance of such Refunded Obligations.

(d) Purchase of Defeasance Securities. A Pricing Officer and the Escrow Agent are each hereby authorized (a) to subscribe for, agree to purchase, and purchase Defeasance Securities

that are permitted investments for a defeasance escrow established to defease Refunded Obligations, and to execute any and all subscriptions, purchase agreements, commitments, letters of authorization and other documents necessary to effectuate the foregoing, and any actions heretofore taken for such purpose are hereby ratified and approved, and (b) to authorize such contributions to the escrow fund as are provided in each Escrow Agreement.

(e) Official Statement. The Pricing Officer is hereby authorized to approve the Preliminary Official Statement, the Official Statement relating to the Bonds and any addenda, supplement or amendment thereto and to deem such documents final in accordance with Rule 15c2-12. The City further approves the distribution of such Official Statement in the reoffering of the Bonds by the underwriters or initial purchasers in final form, with such changes therein or additions thereto as the Pricing Officer executing the same may deem advisable, such determination to be conclusively evidenced by his or her execution thereof.

Section 7.05. FURTHER PROCEDURES. Each Authorized Representative is 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 City 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 Fifth Supplement, the Bonds, the sale and delivery of the Bonds, and fixing all details in connection therewith, and the Paying Agent/Registrar Agreement. In connection with the issuance and delivery of each the Bonds, the above-stated officers, with the advice of the City Attorney and Bond Counsel to the City, are hereby authorized to approve, subsequent to the date of the adoption of this Fifth Supplement, any amendments to the above named documents, and any technical amendments to this Fifth Supplement as permitted by Section 6.01 (v) or (vi) and a Authorized Representative is hereby authorized to execute this Fifth Supplement to evidence approval of such changes.

Section 7.06. NONPRESENTMENT OF BONDS. If any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity or otherwise if moneys sufficient to pay such Bond shall have been deposited with the Paying Agent/Registrar, it shall be the duty of the Paying Agent/Registrar to hold such moneys, without liability to the City, any Owner, or any other person for interest thereon, for the benefit of the Owner of such Bond.

Any moneys so deposited with and held by the Paying Agent/Registrar due to nonpresentment of Bonds must be retained by the Paying Agent/Registrar for a period of at least three years after the final maturity date of the Bonds or advance refunding date, if applicable. Thereafter, to the extent permitted by the unclaimed property laws of the State, such amounts shall be paid by the Paying Agent/Registrar to the City, free from the trusts created by this Fifth Supplement and Owners shall be entitled to look only to the City for payment, and then only to the extent of the amount so repaid by the Paying Agent/Registrar.

Section 7.07. EFFECT OF SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS. Whenever this Fifth Supplement requires any action to be taken on a Saturday, Sunday, or legal holiday, such action shall be taken on the first business day occurring thereafter. Whenever in this Fifth Supplement the time within which any action is required to be taken or within which any

right will lapse or expire shall terminate on a Saturday, Sunday, or legal holiday, such time shall continue to run until midnight on the next succeeding business day.

Section 7.08. PARTIAL INVALIDITY. If any one or more of the covenants or agreements or portions thereof provided in this Fifth Supplement on the part of the City should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreements or portions thereof provided in this Fifth Supplement and the invalidity thereof shall in no way affect the validity of the other provisions of this Fifth Supplement or of the Bonds, but the Owners of the Bonds shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

Section 7.09. CONTINUING DISCLOSURE UNDERTAKING

(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 2018, financial information and operating data with respect to the City as determined by the Pricing Officer at the time the Bonds are sold. The Pricing Certificate shall specify such financial and operating data of the general type included in the final Official Statement authorized by Section 7.04 of this Fifth Supplement, including financial statements of the City if audited financial statements of the City are then available, and (2) if not provided as part of such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit "C" hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and in substantially the form included in the Official Statement, 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; and
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

For these purposes, 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.

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 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 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 this Fifth Supplement for purposes of any other provision of this Fifth Supplement.

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.

(e) **Definitions.** As used in this Section, the following terms have the meanings ascribed to such terms below:

"*MSRB*" means the Municipal Securities Rulemaking Board.

"*Rule*" means SEC Rule 15c2-12, as amended from time to time.

"*SEC*" means the United States Securities and Exchange Commission.

Section 7.10. CREDIT AGREEMENT. To the extent permitted by law, the City reserves the right in the future to enter into Credit Agreements in connection with the Bonds, upon complying with the requirements set forth in Section 7(c) of the Master Ordinance and upon obtaining the written opinion of the Chief Financial Officer that such Credit Agreements are in the best interest of the City given the market conditions at the time. The Credit Agreements will constitute a Credit Agreement as defined in the Master Ordinance. Credit Agreements and the obligations thereunder may, pursuant to their terms, constitute (i) Parity Debt secured by a pledge of the Security on parity with the Bonds and other Parity Debt, (ii) Subordinated Debt secured by a pledge of the Security subordinate to the Bonds and other Parity Debt or (iii) partially Parity Debt and partially Subordinated Debt.

Section 7.11. DEFAULT AND REMEDIES. (a) **Events of Default.** Each of the following occurrences or events for the purpose of this Fifth Supplement 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 City, 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 Fifth Supplement, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the City.

(b) **Remedies for 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 City, or any official, officer or employee of the City in their official capacity, for the purpose of protecting and enforcing the rights of the Registered Owners under this Fifth Supplement, 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.

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

(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 Fifth Supplement, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Fifth Supplement.

(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 Fifth Supplement, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Fifth Supplement 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 City or the City Council.

(iv) None of the members of the City Council, nor any other official or officer, agent, or employee of the City, 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 Fifth Supplement, or because of any Event of Default or alleged Event of Default under this Fifth Supplement.

Section 7.12. RULES OF INTERPRETATION. For purposes of this Fifth Supplement, except as otherwise expressly provided or the context otherwise requires:

(a) The words "herein," "hereof" and "hereunder" and other similar words refer to this Fifth Supplement as a whole and not to any particular Article, Section, or other subdivision.

(b) The definitions in an Article are applicable whether the terms defined are used in the singular or the plural.

(c) All accounting terms that are not defined in this Fifth Supplement have the meanings assigned to them in accordance with then applicable accounting principles.

(d) Any pronouns used in this Fifth Supplement include both the singular and the plural and cover both genders.

(e) Any terms defined elsewhere in this Fifth Supplement have the meanings attributed to them where defined.

(f) The captions or headings are for convenience only and in no way define, limit or describe the scope or intent, or control or affect the meaning or construction, of any provisions or sections hereof.

(g) Any references to Section numbers are to Sections of this Fifth Supplement unless stated otherwise.

Section 7.13. INDIVIDUALS NOT LIABLE. All covenants, stipulations, obligations, and agreements of the City contained in this Fifth Supplement shall be deemed to be covenants, stipulations, obligations, and agreements of the Financing Program, the Utility System and the City to the full extent authorized or permitted by State law. No covenant, stipulation, obligation, or agreement herein contained shall be deemed to be a covenant, stipulation, obligation, or agreement of any member of the City Council or agent or employee of the City in his or her individual capacity and neither the members of the City Council, nor any officer, employee, or agent of the City shall be liable personally on the Bonds when issued, or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 7.14. PAYMENT OF ATTORNEY GENERAL FEE. The City hereby authorizes the disbursement of a fee equal to the lesser of (i) one-tenth of one percent of the principal amount of the Bonds or (ii) \$9,500, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of public securities and credit agreements, as required by Section 1202.004 of the Texas Government Code. The Authorized Representative is hereby instructed to take the necessary measures to make this payment. The City is also authorized to reimburse the appropriate City funds for such payment from proceeds of the Bonds of each Series.

Section 7.15. FURTHER ACTIONS. The officers and employees of the City are hereby 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 City 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 Fifth Supplement, the Bonds, the initial sale and delivery of the Bonds, the Paying Agent/Registrar Agreement, any insurance commitment letter or insurance policy and the Official Statement. In addition, prior to the initial delivery of the Bonds, the Mayor, the City Manager or Assistant City Manager, the Chief Financial Officer, the City Attorney and Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Fifth Supplement or to any of the instruments authorized and approved by this Fifth Supplement necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Fifth Supplement and as described in the Official Statement, (ii) obtain a

rating from any of the national bond rating agencies or satisfy requirements of the Bond Insurer, or (iii) obtain the approval of the Bonds by the Texas Attorney General's office. In case any officer of the City whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

IN ACCORDANCE WITH SECTION 1201.028, Texas Government Code, finally passed, approved and effective this 21st day of November, 2017.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk
City of Round Rock, Texas

APPROVED AS TO LEGALITY:

STEPHAN, L. SHEETS, City Attorney
City of Round Rock, Texas

The City has caused this Fifth Supplement to be executed by an Authorized Representative.

CITY OF ROUND ROCK, TEXAS

By: _____
Authorized Representative

EXHIBIT A

DEFINITIONS

As used in this Fifth Supplement, the following terms shall have the meanings set forth below, unless the text hereof specifically indicates otherwise:

"Accreted Value" means, with respect to a Premium Compound Interest Bond, as of any particular date of calculation, the original principal amount thereof, plus all interest accrued and compounded to the particular date of calculation, as determined in accordance with the Pricing Certificate and the Accretion Table attached as an exhibit to the Pricing Certificate relating to the respective Bonds that shows the Accreted Value per \$5,000 maturity amount on the calculation date of maturity to its maturity.

"Accretion Table" means the exhibit attached to the Pricing Certificate that sets forth the rounded original principal amounts at the Issuance Date for the Premium Compound Interest Bonds and the Accreted Values and maturity amounts thereof as of each Compounding Date until final maturity.

"Authorized Denominations" - Means \$5,000 or any integral multiple thereof.

"Authorized Representative" means the City Manager, Assistant City Manager/Chief Financial Officer and Finance Director or such other individuals so designated by the City to perform the duties of an Authorized Representative under the Master Ordinance.

"Bond Insurer" means any entity that insures or guarantees the payment of principal and interest on any Bonds or the provider of a Reserve Fund Obligation.

"Bonds" - The Bonds issued pursuant to and governed by this Fifth Supplement, as described in Article II hereof.

"Chief Financial Officer" means the Assistant City Manager/Chief Financial Officer of the City or the Finance Director of the City or such other officer or employee of the City or such other individual so designated by the City to perform the duties of Chief Financial Officer under the Master Ordinance.

"Compounded Amount" means, with respect to a Premium Compound Interest Bond, as of any particular date of calculation, the original principal amount thereof plus all interest accrued and compounded to the particular date of calculation.

"Compounding Dates" means the dates on which interest is compounded on the Premium Compound Interest Bonds as set forth in the Accretion Table attached to the Pricing Certificate.

"Current Interest Bonds" means the Bonds paying current interest and maturing in each of the years and in the aggregate principal amounts set forth in the Pricing Certificate.

"Defeasance Securities" - Means (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 City adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide 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 City adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide 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 Pricing Officer may elect in the Pricing 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 City to do so.

"DTC" - The Depository Trust Company, New York, New York, or any successor securities depository.

"DTC Participant" - 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.

"Escrow Agent" means the financial institution selected by the Pricing Officer to perform such function in the Pricing Certificate or any successor escrow agent under the Escrow Agreement.

"Escrow Agreement" means the agreements by and between the City and the Escrow Agent relating to refunding the Refunded Obligations and the cash defeasance, respectively.

"Federal Securities" - Direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America.

"Fifth Supplement" - This Fifth Supplemental Ordinance, which was adopted pursuant to authority reserved by the City under the Master Ordinance.

"Initial Bonds" means the Bonds authorized, issued, and initially delivered as provided in Section 2.06 of this Fifth Supplement.

"Issuance Date" - The date of delivery of the Bonds to the initial purchaser(s) thereof against payment therefor.

"Master Ordinance" means the "Master Ordinance Establishing the City of Round Rock, Texas Utility System Revenue Financing Program," adopted by the City on September 14, 2006,

as amended by an "Ordinance Adopting a First Amendment to the Master Ordinance Establishing the City of Round Rock, Texas Utility System Revenue Financing Program," adopted by the City on May 8, 2014, and as may be further amended or supplemented from time to time.

"Maturity" - When used with respect to the Bonds, the scheduled maturity of the Bonds.

"Maximum Rate" - A net effective interest rate (as defined in and calculated in accordance with the provisions of the Chapter 1204, Texas Government Code, as amended not to exceed fifteen percent (15%)).

"MSRB" - The Municipal Securities Rulemaking Board.

"Ordinance" - Collectively, the Master Ordinance and this Fifth Supplement.

"Owner" - The registered owners of the Bonds as shown on the Security Register and to the extent set forth in a Credit Agreement relating to the Bonds, the party contracting with the City under a Credit Agreement.

"Paying Agent" - The agent selected and appointed by the City for purposes of paying the principal of, premium, if any, and interest on the Bonds to the Owners thereof, as identified in Section 2.03 hereof and any successor to such agent.

"Paying Agent/Registrar" - Collectively, the Paying Agent and the Registrar designated in Section 2.03 of this Fifth Supplement or any successor to such agent.

"Paying Agent/Registrar Agreement" - The agreement having such name executed by and between the City and the Paying Agent/Registrar.

"Predecessor Bonds" - Predecessor Bonds as defined in Section 2.05(a) hereof.

"Premium Compound Interest Bonds" means the Bonds on which no interest is paid prior to maturity, maturing in various amounts and in the aggregate principal amount as set forth in the Pricing Certificate.

"Pricing Certificate" means each Pricing Certificate of the City's Pricing Officer to be executed and delivered pursuant to Section 4 hereof in connection with the issuance of each series of the Bonds.

"Pricing Officer" means the City Manager acting as the designated pricing officer of the City to execute the Pricing Certificate. In the absence of the City Manager, the Chief Financial Officer may act as the designated pricing officer of the City to execute the Pricing Certificate.

"Rebate Account" - The account by that name described in Section 4.02 hereof.

"Record Date" - With respect to each interest payment date of a Bond, the date set forth in the Pricing Certificate.

"Refunded Obligations" means those Refundable Obligations designated by the Pricing Officer in each Pricing Certificate to be refunded.

"Refundable Obligations" means all or a portion of the City's outstanding debt obligations issued pursuant to the Master Ordinance.

"Registrar" - The agent selected and appointed by the City for purposes of keeping and maintaining books and records relating to the registration, transfer, exchange, and payment of the Bonds and interest thereon, as identified in Section 2.03 hereof and any successor to such agent.

"Reserve Account" - The account that was described in Section 4.03 hereof.

"Reserve Account Obligation" - Means a surety bond or insurance policy deposited in the Reserve Account to satisfy the Required Reserve Amount whereby the issuer is obligated to provide funds up to and including the maximum amount and under the conditions specified in such agreement or instrument.

"Rule" - SEC Rule 15c2-12, as amended from time to time.

"SEC" - The United States Securities and Exchange City.

"Section" - Unless the context clearly requires otherwise, refers to a Section of this Fifth Supplement.

"Security Register" - The books and records kept and maintained by the Registrar relating to the registration, transfer, exchange, and payment of the Bonds and the interest thereon.

"Taxable Bonds" means the series of Bonds bearing interest at a taxable rate.

"Tax-Exempt Bonds" means the series of Bonds bearing interest which is excludable from gross income for Federal taxation purposes pursuant to section 103 of the Code.

EXHIBIT B

FORM OF BONDS

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

**UNITED STATES OF AMERICA
STATE OF TEXAS
COUNTIES OF WILLIAMSON AND TRAVIS
CITY OF ROUND ROCK, TEXAS
UTILITY SYSTEM REVENUE REFUNDING BONDS,
SERIES 20__***

[FORM OF FIRST PARAGRAPH OF CURRENT INTEREST BONDS]

No. R-_____

\$_____

<u>ISSUANCE DATE:</u>	<u>INTEREST RATE:</u>	<u>MATURITY DATE:</u>	<u>CUSIP:</u>

REGISTERED OWNER:

PRINCIPAL AMOUNT:

DOLLARS

The City of Round Rock, Texas (the "City") hereby promises to pay, solely from the sources hereinafter identified and as hereinafter stated, to the Registered Owner named above, or the registered assigns thereof, the Principal Amount specified above on the Maturity Date specified above and to pay interest on the unpaid principal amount hereof from the Issuance Date specified above 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 _____, 20__.* Principal of this Bond shall be payable to the Registered Owner hereof, upon presentation and surrender, at the designated office of the Paying Agent/Registrar named in the registration certificate appearing hereon, or its successor. Interest shall be payable to the Registered Owner 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 _____* day of the preceding month. All payments of principal of, premium, if any, and interest on this Bond shall be payable in lawful money of the

* As provided in the Pricing Certificate. To the extent that the Pricing 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 Pricing Certificate shall be used in the executed Bonds.

United States of America, without exchange or collection charges, and interest payments shall be made by the Paying Agent/Registrar by check sent on or before the appropriate date of payment, by United States mail, first-class postage prepaid, to the Registered Owner 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 Registered Owner hereof.

**[FORM OF FIRST PARAGRAPHS
OF PREMIUM COMPOUND INTEREST BOND]**

NO. PC-

**MATURITY
AMOUNT**

\$ _____

<u>ISSUANCE DATE:</u>	<u>INTEREST RATE:</u>	<u>MATURITY DATE:</u>	<u>CUSIP:</u>

REGISTERED OWNER:

MATURITY AMOUNT:

The City of Round Rock, Texas (the "City") hereby promises to pay, solely from the sources hereinafter identified and as hereinafter stated, to the Registered Owner named above, or the registered assigns thereof, the Maturity Amount set forth above, representing the principal amount hereof and accrued and compounded interest hereon. Interest shall accrue on the principal amount hereof from the Issuance Date at the interest rate per annum specified above, calculated on the basis of a 360 day year comprised of twelve 30 day months, compounded semiannually on _____* and _____* of each year commencing _____, 20__*. For convenience of reference, a table appears on the back of this Bond showing the "Compounded Amount" of the original principal amount plus initial premium, if any, per \$5,000 Maturity Amount compounded semiannually at the yield shown on such table. The term "Accreted Value" as set forth in the table on the reverse side hereof shall mean the original principal amount plus initial premium per \$5,000 Maturity Amount compounded semiannually on _____* and _____* at the yield shown on such table.

The Maturity Amount of this Bond is payable in lawful money of the United States of America, without exchange or collection charges. The Maturity Amount of this Bond shall be paid to the Registered Owner hereof upon presentation and surrender of this Bond at maturity, at the designated office for payment of _____, _____, _____*, which is the "Paying Agent/Registrar" for this Bond, and shall be drawn by the Paying Agent/Registrar on, and solely from, funds of the City required by the order authorizing the issuance of the Bonds (the "Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter

*To be completed as determined by the Pricing Officer in the Pricing Certificate. To the extent that the Pricing Certificate relating to the Bonds is inconsistent with any provisions in the Form of Bond or contains information to complete missing information in this Form of Bond, the language in the Pricing Certificate shall be used in the executed Bonds.

provided, payable to the Registered Owner hereof, as it appears on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. The City covenants with the Registered Owner of this Bond that on or before the Maturity Date for this Bond it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Ordinance, the amounts required to provide for the payment, in immediately available funds of the Maturity Amount, when due. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, any payment to the securities depository, or its nominee or registered assigns, shall be made in accordance with existing arrangements between the City and the securities depository.

[FORM OF REMAINDER OF EACH BOND]

This Bond is one of a duly authorized issue of bonds dated _____, 20__* and designated as "City of Round Rock, Texas Utility System Revenue Refunding Bonds, Series 20__"* (the "Bonds"), in the aggregate principal amount of \$_____ issued pursuant to the laws of the State of Texas, including specifically Chapters 1207 and 1371, Texas Government Code, as amended, and initially under and pursuant to an ordinance of the City adopted on November 21, 2017, and entitled Fifth Supplemental Ordinance to the Master Ordinance establishing the City of Round Rock, Texas Utility System Revenue Financing Program (the "Fifth Supplement") for the purpose of (i) refunding the Refunded Obligations (as defined in the Fifth Supplement) and (ii) paying the costs associated with the issuance of the Bonds. The Bonds are secured by a first lien on and pledge of the Security as defined in the Master Ordinance adopted on September 14, 2006, as amended by a first amendment thereto, (collectively, the "Master Ordinance"), on a parity with all other Parity Debt (as defined in the Master Ordinance and the Fifth Supplement).

The Master Ordinance, as supplemented by the Fifth Supplement, is referred to in this Bond as the "Ordinance." Terms used herein and not otherwise defined shall have the meanings given in the Ordinance.

The City reserves the right, at its option, to redeem Bonds having stated maturities on and after _____, 20__,* in whole or from time to time in part, in principal amounts of \$5,000 or any integral multiple thereof, on _____, 20__,* or any date thereafter, at the par value thereof plus accrued interest to the date of redemption. If less than all of the Bonds are to be redeemed, the City may select the maturities of Bonds to be redeemed. If less than all of the Bonds of any maturity are to be redeemed, the Paying Agent/Registrar (or DTC while the Bonds are in Book-Entry-Only form) shall determine by lot the Bonds, or portions thereof, within such maturity to be redeemed. If a Bond (or any portion of the principal sum thereof) shall have been called for redemption and notice of such redemption shall have been given, such Bond (or principal amount thereof to be redeemed) shall become due and payable on such redemption date and interest thereon shall cease to accrue from and after the redemption date, provided funds for the payment of the redemption price and accrued interest thereon are held by the Paying Agent/Registrar on the redemption date.

* As provided in the Pricing Certificate. To the extent that the Pricing 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 Pricing Certificate shall be used in the executed Bonds.

The Bonds maturing on August 1 in the year 20__* (the "Term Bonds") are subject to mandatory sinking fund redemption by lot prior to maturity in the following amounts, on the following dates and at a price of par plus accrued interest to the redemption date.

Bonds Maturing _____, 20__

Redemption Date	Principal Amount
August 1, 20__	\$ _____
August 1, 20__*	_____*

*Final Maturity

The principal amount of the Term Bonds required to be redeemed pursuant to the operation of the mandatory sinking fund redemption provisions shall be reduced, at the option of the City by the principal amount of any Term Bonds of the stated maturity which, at least 50 days prior to a mandatory redemption date, (1) shall have been acquired by the City, at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the City with monies in the Interest and Sinking Fund at a price not exceeding the principal amount of the Term Bonds plus accrued interest to the date of purchase thereof, or (3) shall have been redeemed pursuant to the optional redemption provisions and not theretofore credited against a mandatory sinking fund redemption requirement.*

At least 30 days prior to the date fixed for any redemption of Bonds or portions thereof prior to maturity, a written notice of such redemption shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, at least 30 days prior to the date fixed for any such redemption to the Registered Owner of each Bond to be redeemed at its address as it appeared on the Registration Books maintained by the Paying Agent/Registrar on the day such notice of redemption is mailed. By the date fixed for any such redemption, due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Bonds or portions thereof which are to be so redeemed. If such written notice of redemption is mailed and if due provision for such payment is made, all as provided above, the Bonds or portions thereof which are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Bond shall be redeemed a substitute Bond or Bonds having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the Registered Owner, and in an aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the City, all as provided in the Ordinance.

* As provided in the Pricing Certificate. To the extent that the Pricing 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 Pricing Certificate shall be used in the executed Bonds.

With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by the Ordinance 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 City, 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 City 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.

Notice of redemption shall be given at the times and in the manner provided in the Fifth Supplement.

If this Bond is in a denomination in excess of \$5,000, portions of the principal sum hereof in principal amount 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 Registered Owner hereof, upon the surrender of this Bond at the principal office of the Paying Agent/Registrar, a new Bond or Bonds of like maturity, series and interest rate in any authorized denominations provided by the Resolution for the then unredeemed balance of the principal amount hereof. If this Bond is selected for redemption, in whole or in part, neither the City nor the Paying Agent/Registrar shall be required to transfer this Bond to an assignee of the Registered Owner within forty-five (45) days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to any exchange by the Registered Owner of the unredeemed balance hereof in the event of its redemption in part.

The Bonds are special obligations of the City, payable solely from and equally secured by a lien on and pledge of the Security. The Bonds do not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the City, except with respect to the Security.

The pledge of the Security and the other obligations of the City under the Ordinance may be discharged at or prior to the maturity of the Bonds upon the making of provision for their payment on the terms and conditions set forth in the Ordinance.

Subject to satisfying the terms and conditions stated in the Ordinance, the City has reserved the right to issue additional Parity Debt payable solely from and equally and ratably secured by a parity lien on and pledge of the Security and other moneys and securities pledged under the Ordinance to the payment of the Bonds.

Reference is hereby made to the Ordinance, a copy of which is on file in the designated office of the Paying Agent/Registrar, and to all of the provisions of which any Registered Owner of this Bond by his acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for the Bonds; the Security; the nature and extent and manner of enforcement of the pledge; the terms and conditions for the issuance of additional Parity Debt; the conditions upon which the Ordinance may be amended or supplemented with or without

the consent of the Registered Owners of the Bonds; the rights and remedies of the Registered Owner hereof with respect hereto and thereto; the rights, duties and obligations of the City; the terms and provisions upon which the liens, pledges, charges, and covenants made therein may be discharged at or prior to the maturity or redemption of this Bond and this Bond thereafter no longer to be secured by the Ordinance or be deemed to be outstanding thereunder; and for the other terms and provisions thereof.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred only upon its presentation and surrender at the designated office of the Paying Agent/Registrar named below, or its successor with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the Registered Owner hereof, or his duly authorized agent, and such transfer is noted on the Security Register by the Paying Agent/Registrar. When a transfer occurs, one or more new fully-registered Bonds of the same 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 City and the Paying Agent/Registrar, and any agent of either, shall treat the Registered Owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal hereof at its Maturity or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, nor any agent of either, shall be affected by notice to the contrary. In the event of nonpayment 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 City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Registered Owner 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, recited, represented, and declared that the City is a duly organized and legally existing home-rule city, organized under and by virtue of the Constitution and laws of the State of Texas; that the issuance of this Bond and the series of which it is a part are duly authorized by law; that all acts, conditions, and things required to exist and be done precedent to and in the issuance of this Bond to render the same lawful and valid have been properly done, have happened, and have been performed in regular and due time, form, and manner as required by the Constitution and laws of the State of Texas and the Ordinance; that this series of bonds does not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of this Bond and the Series of which it is a part as aforestated. In case any provision in this Bond 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. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas. The holder of this Bond is not entitled to demand payment of this Bond out of any money raised by taxation.

IN WITNESS WHEREOF, the City has caused its seal to be impressed or a facsimile thereof to be printed hereon and this Bond to be executed in the name of and on behalf of the City with the manual or facsimile signatures of its Mayor, and attested by the City Clerk.

CITY OF ROUND ROCK, TEXAS

By: _____ By: _____
City Clerk Mayor

(SEAL)

[INSERTIONS FOR THE INITIAL BONDS]

(i) The initial Current Interest Bonds shall be in the form set forth in this Exhibit, except that:

- A. Immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below", and the heading "CUSIP NO." shall be deleted.
- B. The first paragraph of the Bond shall be deleted and the following will be inserted (with all blanks and bracketed items to be completed with information contained in this Fifth Supplement):

"The City of Round Rock, Texas (the "City") hereby promises to pay, solely from the sources hereinafter identified and as hereinafter stated, to the Registered Owner named above, or the registered assigns thereof, on August 1 in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Amount</u>	<u>Year</u>	<u>Rate</u>
(Information for the Current Interest Bonds from the Pricing Certificate to be inserted)		

The City promises to pay interest on the unpaid principal amount hereof from the Issuance Date specified above at the respective 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 _____, 20__.* Principal of this Bond shall be payable to the Registered Owner hereof, upon presentation and surrender, at the principal office of the Paying Agent/Registrar named in the registration certificate appearing hereon, or its successor. Interest shall be payable to the Registered Owner of this Bond whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on

* As provided in the Pricing Certificate. To the extent that the Pricing 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 Pricing Certificate shall be used in the executed Bonds.

the "Record Date," which is the 15th day of the next preceding month. All payments of principal of, premium, if any, and interest on this Bond shall be payable in lawful money of the United States of America, without exchange or collection charges, and interest payments shall be made by the Paying Agent/Registrar by check sent on or before the appropriate date of payment, by United States mail, first-class postage prepaid, to the Registered Owner 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 Registered Owner hereof."

C. The Initial Bond shall be numbered "T-1."

(ii) The Initial Compound Interest Bond shall be in the form set forth in this Exhibit, except that:

A. Immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below", and the heading "CUSIP NO." shall be deleted.

B. The first paragraph of the Bond shall be deleted and the following will be inserted (with all blanks and bracketed items to be completed with information contained in this Fifth Supplement):

"The City of Round Rock, Texas (the "City") hereby promises to pay, solely from the sources hereinafter identified and as hereinafter stated, to the Registered Owner named above, or the registered assigns thereof, Payment at Maturity on _____* in each of the years and in the installments of the respective Maturity Amounts set forth in the following schedule:

<u>Amount</u>	<u>Year</u>	<u>Rate</u>
(Information for the Premium Compound Interest Bonds from the Pricing Certificate to be inserted)		

The amount shown above as the respective Maturity Amounts represent the principal amount hereof and accrued and compounded interest hereon. Interest shall accrue on the principal amount hereof from the Issuance Date at the interest rate per annum specified above, compounded semiannually on _____* and _____* of each year commencing _____, 20____* For convenience of reference, a table appears on the back of this Bond showing the "Compounded Amount" of the original principal amount plus initial premium, if any, per \$5,000 Maturity Amount compounded semiannually at the yield shown on such table. All payments on this Bond shall be payable in lawful money of the United States of America, without exchange or collection charges, and interest payments shall be made by the Paying Agent/Registrar by check sent on or before the appropriate date of payment, by United States mail, first-class postage prepaid, to the Registered Owner 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 Registered Owner hereof."

C. the Initial Premium Compound Interest Bond shall be numbered "TPC-1."

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)

**AUTHENTICATION CERTIFICATE OF
PAYING AGENT/REGISTRAR**

This Bond has been duly issued and registered under the provisions of the within-mentioned Resolution; the bond or bonds of the above titled 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.

_____,
as Paying Agent/Registrar

Registered this date:

By: _____
Authorized Signature

Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto

(Please insert Social Security or Taxpayer Identification Number of Transferee)

(Please print or typewrite name and address, including zip code, of Transferee)

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: _____

Signature guaranteed by:

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.

EXHIBIT "C"

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 7.09 of this Fifth Supplement.

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the notes to the financial statements.