



City of Round Rock

City Council

Meeting Agenda

Craig Morgan, Mayor
Writ Baese, Mayor Pro-Tem, Place 5
Tammy Young, Place 1
Rene Flores, Place 2
Matthew Baker, Place 3
Will Peckham, Place 4
Hilda Montgomery, Place 6

Thursday, April 11, 2019

6:00 PM

City Council Chambers, 221 East Main St.

A. CALL MEETING TO ORDER

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, 2018 Edition.

E. PROCLAMATIONS, STAFF RECOGNITION AND SPECIAL PRESENTATIONS:

E.1 [TMP-0143](#) [Consider proclaiming April as "Fair Housing Month" and April 22-26, 2019 as "Community Development week" in the City of Round Rock.](#)

E.2 [TMP-0144](#) [Consider proclaiming April 7-13, 2019 as "National Crime Victims' Rights Week" in the City of Round Rock.](#)

F. STAFF PRESENTATIONS:

F.1 [TMP-0148](#) [Consider a presentation and department update from the Library.](#)

G. APPROVAL OF MINUTES:

G.1 [TMP-0142](#) [Consider approval of the minutes for the March 28, 2019 City Council meeting.](#)

H. RESOLUTIONS:

- H.1 [2019-0158](#) [Consider a resolution authorizing the Mayor to execute a Joint Election Agreement with Travis County and participating entities for the May 4, 2019 General Election.](#)
- H.2 [2019-0159](#) [Consider a resolution authorizing the Mayor to execute a Real Estate Contract with Joe Douglas Johnson, Camilia Nicole Johnson, and Corey Johnson for the purchase of property described as Original Plat of the City of Round Rock, Block 36, Lots 1, 3, 5, 6, 7, 8, 9, 10 necessary for the construction of the Library Project.](#)
- H.3 [2019-0147](#) [Consider a resolution authorizing the Mayor to execute an Agreement with Magic in the Sky, LLC for the purchase of fireworks display services.](#)
- H.4 [2019-0148](#) [Consider a resolution authorizing the Mayor to execute a Contract with Pioneer Manufacturing Company for the purchase of irrigation parts and ground maintenance equipment and supplies.](#)
- H.5 [2019-0157](#) [Consider a resolution determining that Competitive Sealed Proposal is the delivery method which provides the best value for the Downtown Historical Water Tank Project.](#)
- H.6 [2019-0149](#) [Consider a resolution authorizing the City Manager to issue a Purchase Order to Silsbee Ford for the purchase of two \(2\) new vehicles for the Police Department.](#)
- H.7 [2019-0150](#) [Consider a resolution authorizing the Mayor to execute a Contract with Siddons-Martin Emergency Group, LLC for the purchase of equipment, repair parts and repair services for fire apparatus vehicles.](#)
- H.8 [2019-0154](#) [Consider a resolution authorizing the Mayor to execute a Public Highway At-Grade Crossing Agreement with Union Pacific Railroad Company for construction of a new at grade public road crossing for Harrell Parkway.](#)
- H.9 [2019-0155](#) [Consider a resolution authorizing the Mayor to execute a Public Highway At-Grade Crossing Agreement with Union Pacific Railroad Company for construction, use, maintenance and repair of an at grade public road crossing over Brushy Creek Plant Road.](#)
- H.10 [2019-0156](#) [Consider a resolution determining that Competitive Sealed Proposal is the delivery method which provides the best value for the Downtown Parklet Project.](#)

I. ORDINANCES:

- I.1 [2019-0151](#) [Consider an ordinance annexing 7.499 acres of land located south of University Boulevard and east of Sunrise Road. \(First Reading\)*](#)
- I.2 [2019-0152](#) [Consider public testimony regarding, and an ordinance zoning 7.499 acres of land located south of University Boulevard and east of Sunrise Road to the C-1a \(General Commercial-Limited\) zoning district. \(First Reading\)*](#)

- I.3 [2019-0153](#) [Consider public testimony regarding, and an ordinance approving an amendment to the General Plan 2020 to modify the Future Land Use Map to allow commercial development on the eastern half of 7.499 acres located south of University Boulevard and east of Sunrise Road. \(First Reading\)*](#)

J. APPOINTMENTS:

- J.1 [TMP-0168](#) [Consider one \(1\) appointment to the Historic Preservation Commission to fill an unexpired term.](#)

K. COUNCIL COMMENTS REGARDING ITEMS OF COMMUNITY INTEREST

L. EXECUTIVE SESSION:

- L.1 [TMP-0173](#) [Consider Executive Session as authorized by §551.072, Government Code, related to the sale and/or value of real property to wit: 100 Tower Drive, Round Rock, Texas.](#)

M. 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 below, as authorized by Texas Government Code:

§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 5th day of April 2019 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 proclaiming April as "Fair Housing Month" and April 22-26, 2019 as "Community Development week" in the City of Round Rock.

Type: Proclamation

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Sara White, City Clerk

Cost:

Indexes:

Attachments:

Department: City Clerk's Office

Text of Legislative File TMP-0143



City of Round Rock

Agenda Item Summary

Agenda Number: E.2

Title: Consider proclaiming April 7-13, 2019 as "National Crime Victims' Rights Week" in the City of Round Rock.

Type: Proclamation

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Sara White, City Clerk

Cost:

Indexes:

Attachments:

Department: City Clerk's Office

Text of Legislative File TMP-0144



City of Round Rock

Agenda Item Summary

Agenda Number: F.1

Title: Consider a presentation and department update from the Library.

Type: City Council Presentation

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Michelle Cervantes, Library Director

Cost:

Indexes:

Attachments:

Department: Library Department

Text of Legislative File TMP-0148



City of Round Rock

Agenda Item Summary

Agenda Number: G.1

Title: Consider approval of the minutes for the March 28, 2019 City Council meeting.

Type: Minutes

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Sara White, City Clerk

Cost:

Indexes:

Attachments: 032819 Draft Minutes

Department: City Clerk's Office

Text of Legislative File TMP-0142



City of Round Rock

Meeting Minutes - Draft City Council

Thursday, March 28, 2019

CALL MEETING TO ORDER

The Round Rock City Council met in regular session on March 28, 2019 in the City Council chambers at 221 E. Main Street. Mayor Morgan called the meeting to order at 6:03 pm.

ROLL CALL

Present:	7 - Mayor Craig Morgan Mayor Pro-Tem Writ Baese Councilmember Tammy Young Councilmember Rene Flores Councilmember Matthew Baker Councilmember Will Peckham Councilmember Hilda Montgomery
Absent:	0

PLEDGES OF ALLEGIANCE

*Mayor Morgan led the following Pledges of Allegiance:
United States
Texas*

CITIZEN COMMUNICATION

There were no citizens wishing to speak at this meeting of the City Council.

STAFF PRESENTATIONS:

E.1 [TMP-0093](#)

Consider a presentation and department update from Communications and Marketing.

Will Hampton, Communications and Marketing Director made the staff presentation.

APPROVAL OF MINUTES:

- F.1 [TMP-0091](#) Consider approval of the minutes for the March 14, 2019 City Council meeting.

A motion was made by Councilmember Peckham, seconded by Councilmember Young, that the Minutes be approved. The motion carried by the following vote:

Aye: 7 - Mayor Morgan
Mayor Pro-Tem Baese
Councilmember Young
Councilmember Flores
Councilmember Baker
Councilmember Peckham
Councilmember Montgomery

Nay: 0

Absent: 0

PUBLIC HEARINGS:

- G.1 [TMP-0092](#) Consider public testimony regarding the issuance of tax-exempt bonds by the Milford Higher Education Facilities Corporation for the benefit of Round Rock Christian Academy.

Susan Morgan, CFO made the staff presentation.

Mayor Morgan opened the hearing for public testimony.

There being none, the public hearing was closed.

RESOLUTIONS:

- H.1 [2019-0143](#) Consider a resolution approving the issuance of tax-exempt bonds by the Milford Higher Education Facilities Corporation for the benefit of Round Rock Christian Academy.

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

Aye: 7 - Mayor Morgan
Mayor Pro-Tem Baese
Councilmember Young
Councilmember Flores
Councilmember Baker
Councilmember Peckham
Councilmember Montgomery

Nay: 0

Absent: 0

H.2 [2019-0144](#)

Consider a resolution authorizing the Mayor to execute a Contract with Quality Counts, LLC for traffic data collection services.

Gary Hudder, Transportation Director made the staff presentation.

A motion was made by Councilmember Baker, seconded by Councilmember Peckham, that this Resolution be approved. The motion carried by the following vote:

Aye: 7 - Mayor Morgan
Mayor Pro-Tem Baese
Councilmember Young
Councilmember Flores
Councilmember Baker
Councilmember Peckham
Councilmember Montgomery

Nay: 0

Absent: 0

H.3 [2019-0145](#)

Consider a resolution authorizing the Mayor to execute a Utility Relocation Agreement with Time Warner Cable Texas, LLC for Phase 5A and 5B of the Southwest Downtown 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: 7 - Mayor Morgan
Mayor Pro-Tem Baese
Councilmember Young
Councilmember Flores
Councilmember Baker
Councilmember Peckham
Councilmember Montgomery

Nay: 0

Absent: 0

H.4 [2019-0141](#)

Consider a resolution determining the necessity and authorizing the use of the City's power of eminent domain to acquire a subsurface raw water line easement in and to 0.524 acre of land owned by Jo Ann Smothers Walker for the construction of raw water line utility improvements to and for the regional water treatment and distribution system of the Brushy Creek Regional Utility Authority, Inc. and its participating cities, and take other appropriate action (Parcel 41).

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

A motion was made by Councilmember Peckham to move that the City Council approve this resolution which authorizes the use of the power of eminent domain to acquire a subsurface raw water line easement to the following parcel of land for construction of raw water line utility improvements to and for the regional water treatment and distribution system of the Brushy Creek Regional Utility Authority, Inc. and its participating cities: a 0.524-acre tract of land from property owned by Jo Ann Smothers Walker, as described in Exhibit A of the resolution, seconded by Mayor Pro-Tem Baese. The motion carried by the following vote:

Aye: 7 - Mayor Morgan
Mayor Pro-Tem Baese
Councilmember Young
Councilmember Flores
Councilmember Baker
Councilmember Peckham
Councilmember Montgomery

Nay: 0

Absent: 0

H.5 [2019-0142](#)

Consider a resolution determining the necessity and authorizing the use of the City's power of eminent domain to acquire a subsurface raw water line easement in and to 0.414 acre of land owned by Samir N. Seth and Anja Seth for the construction of raw water line utility improvements to and for the regional water treatment and distribution system of the Brushy Creek Regional Utility Authority, Inc. and its participating cities, and take other appropriate action (Parcel 48).

A motion was made by Councilmember Peckham to move that the City Council approve this resolution which authorizes the use of the power of eminent domain to acquire a subsurface raw water line easement to the following parcel of land for construction of raw water line utility improvements to and for the regional water treatment and distribution system of the Brushy Creek Regional Utility Authority, Inc. and its participating cities: a 0.414-acre tract of land from property owned by Samir N. Seth and Anja Seth, as described in Exhibit A of the resolution, seconded by Councilmember Young. The motion carried by the following vote:

Aye: 7 - Mayor Morgan
Mayor Pro-Tem Baese
Councilmember Young
Councilmember Flores
Councilmember Baker
Councilmember Peckham
Councilmember Montgomery

Nay: 0

Absent: 0

H.6 [2019-0146](#)

Consider a resolution authorizing the Mayor to execute Quantity Adjustment/Change Order No. 4 with T. Gray Utility & Rehab Co., LLC for the 2016 Wastewater Collection System Rehabilitation - Manhole Rehabilitation, Open Cut, and Point Repairs Project.

Michael Thane, Utilities and Environmental Services Director 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: 7 - Mayor Morgan
Mayor Pro-Tem Baese
Councilmember Young
Councilmember Flores
Councilmember Baker
Councilmember Peckham
Councilmember Montgomery

Nay: 0

Absent: 0

APPOINTMENTS:

I.1 [TMP-0121](#)

Consider one (1) appointment to the Planning and Zoning Commission.

A poll of Council was done with each member stating one name. The name with mjaority votes was appointed:

Amer Gilani	0 Votes	
Chuck Malesky	2 Votes	
Cory Shaw	0 Votes	
David Ludwig	0 Votes	
Edward Youmans	0 Votes	
Paul Emerson	5 Votes	APPOINTED
Simon Hemby	0 Votes	
Stewart Litwin	0 Votes	
Tina Steiner	0 Votes	

I.2 [TMP-0122](#)

Consider two (2) appointments to the Historic Preservation Commission.

A poll of Council was done with each member stating two names. The two names with mjaority votes were appointed:

Andrew Wolf	2 Votes	
Chuck Malesky	0 Votes	
Cory Shaw	1 Vote	
Damien Koch	0 Votes	
Edward Youmans	2 Votes	
John Barlow	0 Votes	
Shirley Marquardt	5 Votes	APPOINTED
Simon Hemby	0 Votes	
Tina Steiner	4 Votes	APPOINTED

COUNCIL COMMENTS REGARDING ITEMS OF COMMUNITY INTEREST**ADJOURNMENT**

There being no further business, Mayor Morgan adjourned the meeting at 7:02 p.m.

Respectfully Submitted,

Sara L. White, City Clerk



City of Round Rock

Agenda Item Summary

Agenda Number: H.1

Title: Consider a resolution authorizing the Mayor to execute a Joint Election Agreement with Travis County and participating entities for the May 4, 2019 General Election.

Type: Resolution

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Sara White, City Clerk

Cost:

Indexes: General Fund

Attachments: Resolution, Exhibit A

Department: City Clerk's Office

Text of Legislative File 2019-0158

This agreement will allow the City to share in the costs of the Travis County portion of our General Election with all of the other entities in Travis County that are participating in the May election. This agreement must be done for each election.

The City's portion of costs in Travis County are based on the number of registered voters, and Round Rock has 687 registered voters in Travis County. The cost estimate is attached to the agreement as Exhibit C. We are responsible for paying a deposit to the County. This deposit represents approximately 75% of the costs of each Participating Entity's share of the estimated election costs. The County will submit an invoice to each Participating Entity for the balance of the Participating Entity's actual joint election expenses upon the election's completion. Joint-election expenses include expenses for facilities, personnel, supplies, and training that the County actually incurs for establishing and operating all early voting and election-day activities at the polling place in the joint election territory as well as activities related to tabulating votes, all as reflected on the Cost Estimate. Each Participating Entity will pay the total amount of its invoice within thirty (30) days of receiving it.

Cost: \$1,536.69

Source of Funds: General Fund

RESOLUTION NO. R-2019-0158

WHEREAS, the City of Round Rock wishes to enter into a Joint Election Agreement (“Agreement”) with Travis County for the purpose of sharing election equipment, election officials, and sharing precinct polling locations, and election ballots where appropriate; and

WHEREAS, this Agreement is made pursuant to Texas Election Code Sections 31.092 and 271.002 and Texas Education Code Section 11.0581, for a joint election to be held on the uniform election date of May 4, 2019; and

WHEREAS, the City Council desires to enter into said Agreement with Travis County, 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, the Joint Election Agreement for May 4, 2019 Elections with Travis County, a copy of said Agreement 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 11th day of April, 2019.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk

EXHIBIT

"A"

JOINT ELECTION AGREEMENT FOR MAY 4, 2019 ELECTIONS

Travis County (the "County") will be conducting general and special election for the Participating Entities listed in Exhibit A, which is attached to and incorporated into this agreement, on May 4, 2019. The Participating Entities require elections to be held on May 4, 2019 in those portions of Travis County as shown on the maps and metes and bounds descriptions in Exhibit B, also attached to and incorporated into this agreement.

Under Section 271.002, Texas Election Code, Texas's political subdivisions are authorized to hold elections jointly in voting precincts that common polling places can serve, if two or more political subdivisions' authorities order elections to be held on the same day in all or part of the same territory. And Texas Government Code Chapter 791 authorizes local governments to contract with one another and with state agencies for various governmental functions, including those in which the contracting parties are mutually interested.

It would benefit the County, the Participating Entities, and their respective citizens and voters to hold the elections jointly in the election precincts that common polling places can serve. Thus, the County and the Participating Entities enter into this joint election agreement.

I. Scope of Joint Election Agreement

This agreement covers conducting the May 4, 2019 Joint General and Special Elections for the parties to this agreement to be held on May 4, 2019. The County and the Entities will hold these elections on May 4, 2019 ("Election Day") jointly for the voters in those portions of Travis County identified on the maps and descriptions in Exhibit B.

II. Election Officer

The Participating Entities hereby appoint the Travis County Clerk, the election officer for Travis County, as the election officer to perform or supervise the County's duties and responsibilities involved in conducting the joint election covered by this agreement.

III. Early Voting

Each of the Participating Entities agrees to conduct its early voting jointly. Each of the Participating Entities appoints the Travis County Clerk, the early voting clerk for Travis County, as the early voting clerk for the joint election. Early voting for the Participating Entities will be conducted at the dates, times, and locations to be mutually agreed upon by the election officer and authorized and ordered by the governing body of each Participating Entity.

A. County Responsibilities

1. The County will provide to the governing body of each Participating Entity a list of places, times, and dates of early voting suitable for consideration and adoption by the governing body, under Texas Election Code chapter 85.

2. The Travis County Clerk, as the early voting clerk, will be responsible for conducting early voting by mail and by personal appearance for all Travis County voters voting in the joint election. The Travis County Clerk will receive from each Participating Entity's regular early voting clerk applications for early voting ballots to be voted by mail, under Texas Election Code Title 7. The Travis County Clerk will send early voting ballots by mail and receive early voting ballots for early voting by mail. And the Travis County Clerk may appoint such deputy early voting clerks as necessary to assist the Travis County Clerk with voting to take place at the early voting locations.

3. The County will determine the number of election workers to hire to conduct early voting in the joint election. The Travis County Clerk will arrange or contract for training for all election workers and will assign all election workers employed for early voting in the joint election. The training of these election workers is mandatory; these individuals will be compensated for their time in training. The County will provide a training facility for election schools to train election workers employed in conducting early voting, including the mobile early voting program, early voting by personal appearance at main and temporary branch early voting polling places, early voting by mail, and other aspects of the early voting program for the joint election. The County will name early voting deputies and clerks employed to conduct early voting.

4. The County will provide and deliver all supplies and equipment necessary to conduct early voting for the joint election, including ballots, election forms, any necessary ramps, utility hook-ups, signs, registration lists and ballot boxes, to early voting polling places. The County will designate and confirm all early voting polling place locations.

5. The County will be responsible for preparing and transporting the electronic voting equipment necessary to conduct early voting. The County will perform all tests of voting equipment as required, including posting notice of equipment testing.

6. Under Election Code sections 66.058 and 271.010, the Participating Entities appoint the Travis County Clerk as the joint custodian of records for the sole purpose of preserving all voted ballots securely in a locked room in the locked ballot boxes for the preservation period that the Election Code requires.

7. The County will receive ballot language in both English and Spanish from each Participating Entity and format the ballots as needed to include these languages. The County will provide each Participating Entity with a final proof of ballot language for approval before printing the ballots. Upon final proof approval, ballots will be printed in an expedited timeframe so as to allow ballot allocations for the Early Voting by Personal Appearance Program, and the ballot mail outs for the Early Voting by Mail Program.

8. A single joint voter sign-in process consisting of a common list of registered voters, and common signature rosters will be used for early voting. A single, combined ballot and single ballot box will be used. The County will use an electronic voting system, as defined and described in Texas Election Code Title 8, and agrees to use ballots that are compatible with such equipment.

9. The County will be responsible for conducting the Early Voting Ballot Board. The County will designate a person to serve as the presiding judge for the Early Voting Ballot Board and will provide that information to the governing body of each Participating Entity for entry of an order by that authority appointing this official. The presiding judge for the Early Voting Ballot Board is eligible to serve in this capacity. The presiding judge for the Early Voting Ballot Board will appoint two or more election clerks, and the judge and clerks will compose the Early Voting Ballot Board and will count and return early voting ballots, and perform other duties the Election Code requires of it.

B. Participating Entities' Responsibilities

1. Each Participating Entity will appoint a qualified person to serve as the regular early voting clerk for the Participating Entity. The regular early voting clerk for each respective Participating Entity will receive requests for applications for early voting ballots to be voted by mail and will forward in a timely manner, as prescribed by law, any and all applications for early voting ballots to be voted by mail, received in the Entity's office, to the Travis County Clerk.

2. Each Participating Entity will appoint a qualified person to act as custodian of records for the Participating Entity to perform the duties imposed by the Election Code on the custodian of records for its respective entity.

3. Each Participating Entity will provide ballot language for the respective portion of the official ballot to the County in both English and Spanish. The Entity must make any additions, modifications, deletions, or other changes to such ballot contents or language before the Entity's final proof approval. The County will provide the Participating Entity with a final proof of ballot language, as it is to appear on the ballot, for final proof approval. Upon final proof approval, the ballot will be programmed for the voting equipment in an expedited timeframe so as to allow ballot allocations for the Early Voting by Personal Appearance Program, and the printed ballot mail outs for the Early Voting by Mail Program.

IV. Election Day

A. County Responsibilities

1. The County will designate and confirm all Election Day polling place locations for the joint election, and will forward such information to the Participating Entities in a timely fashion to allow the governing body of the respective Participating Entities to enter orders designating such polling places and for the Entities to submit to the U.S. Department of Justice for review before Election Day.

2. The County will designate the presiding election judge and the alternate presiding election judge to administer the election in the precinct in which a common polling place is to be used and will forward such information to the Participating Entities to allow the governing bodies of the respective Participating Entities to enter appropriate orders designating such officials before the election. The presiding election judge and alternate presiding election judge must be qualified voters of the Travis County election precinct in which the joint election is held.

The presiding election judge for the precinct in which a common polling place is used may appoint election clerks as necessary to assist the judge in conducting the election at the precinct polling place. The alternate presiding election judge may be appointed as a clerk. The alternate presiding election judge may serve as the presiding election judge for the precinct in the presiding election judge's absence. Election judges and clerks will be compensated at the rate established by the County. The Texas Election Code and other applicable laws will determine compensable hours.

3. One set of election officials will preside over the election in the precinct using a common polling place. There will be a single joint voter sign-in process consisting of a common list of registered voters and common signature rosters in the precinct using a common polling place. A single, combined ballot and single ballot box will be used. The officer designated by law to be the custodian of the voted ballots for the County will be custodian of all materials used in common in the precinct using a common polling place. The County will use an electronic voting system, as defined and described by Texas Election Code Title 8, and agrees to use ballots that are compatible with such equipment.

4. The County will arrange for training and will provide the instructors, manuals and other training materials deemed necessary for training all judges and clerks. Training for election judges and alternate judges is mandatory, and these individuals will be compensated for their time in training.

5. The County will arrange for election-day voter registration precinct lists for the joint election. The County will determine the amount of election supplies needed for Election Day voting.

6. The County, by and through the County Clerk's Elections Division, and Administrative Operations, will be responsible for preparing and transporting voting equipment and election-day supplies for use on Election Day.

7. The County, by and through the County Voter Registrar, will provide the list of registered voters as needed in the overlapping jurisdictions identified in the attached exhibits, with designation of registered voters in each Participating Entity, for use at the joint election day polling place on Election Day.

8. The common polling place is designated as the polling place that the County uses. At the common polling place, a single ballot box will be used for depositing all ballots cast in the joint election. At this polling place, one voter registration list and one combination poll list and signature roster form will be kept for the joint election. The final returns for each Participating Entity and the County will be canvassed separately by each respective Participating Entity. The Travis County Clerk will maintain a return center on Election Day for the purpose of receiving returns from the County. The Travis County Clerk will provide unofficial election results to the qualified individual appointed by each Participating Entity.

9. On Election Day, the Travis County Clerk or the clerk's Elections Division will field all questions from election judges.

10. The County will make available translators capable of speaking English and Spanish to assist Spanish-speaking voters in understanding and participating in the election process in the territory covered by this agreement.

B. Participating Entities' Responsibilities

1. Before Election Day, each Participating Entity will answer questions from the public with respect to the Participating Entity's election during regular office hours of 8:00 a.m. – 5:00 p.m.

2. The custodian of records for each Participating Entity will receive returns from the Travis County Clerk on Election Day.

V. Election Night

A. County Responsibilities

1. The County will be responsible for all activities on election night, including setting up a central counting station, coordinating and supervising the results tabulation, coordinating and supervising the physical layout of the support stations that are the joint election's receiving substations, and coordinating and managing election media coverage.

2. The County is responsible for transporting voted ballot boxes to the central counting station.

3. The County will appoint the presiding judge and alternate presiding judge of the central counting station to maintain order at the central counting station, to administer oaths as necessary, to receive sealed ballot boxes, and to perform such other duties that the Texas Election Code requires, and will forward such information to each Participating Entity in a timely fashion to allow the governing body of each Participating Entity to enter appropriate orders designating such election officials before the election. The presiding judge of the central counting station may appoint clerks to serve at the central counting station. In addition, the County will appoint a tabulation supervisor to be in charge of operating the automatic tabulating equipment at the central counting station; an individual to serve as central counting station manager; and an assistant counting station manager to be in charge of administering the central counting station and generally supervising the personnel working at the central counting station. The County will forward such information to each Participating Entity in a timely fashion to allow the governing body of each Participating Entity to enter appropriate orders designating such election officials before the election.

4. The County will provide the Participating Entities with reasonable space in a public area adjacent to the central counting station at which each Participating Entity may have representatives or other interested persons present during the counting process.

B. Participating Entities' Responsibilities

1. Other than receiving returns from the Travis County Clerk, the Participating Entities have no role or responsibility on the night of the election.

VI. County Resources

A. The County will provide the Elections Division permanent staff and offices to administer the joint election, under the Travis County Clerk's direction.

B. For early voting, the County will provide a locked and secure area in which voted ballot boxes will be stored until the Early Voting Ballot Board convenes. The County, by and through Administrative Operations, will be responsible for transporting the ballot boxes to the central counting station for the Early Voting Ballot Board.

C. The County will be responsible for providing and maintaining voting equipment and testing any voting equipment as required by the Texas Election Code.

D. The County will process the payroll for all temporary staff hired to conduct the joint election. The payroll processing includes statutory reporting and providing W-2 forms where applicable.

E. The County will conduct early voting as indicated in this agreement.

VII. Joint Election Costs; Payment

A. Transmitted with this agreement is a check payable to Travis County from each Participating Entity, in the amount equal to the deposit identified for each Entity in the Cost Estimate attached as Exhibit C, which is also incorporated into this agreement. This deposit represents approximately 75% of the costs of each Participating Entity's share of the estimated election costs. The County will submit an invoice to each Participating Entity for the balance of the Participating Entity's actual joint election expenses upon the election's completion. Joint-election expenses include expenses for facilities, personnel, supplies, and training that the County actually incurs for establishing and operating all early voting and election-day activities at the polling place in the joint election territory as well as activities related to tabulating votes, all as reflected on the Cost Estimate. Each Participating Entity will pay the total amount of its invoice within thirty (30) days of receiving it.

B. In the event of a recount, the expense of the recount will be borne by the Participating Entity involved in the recount on a pro-rata basis.

C. In the event a Participating Entity cancels its respective election because of unopposed candidates under Texas Election Code Title I, subchapter C, the Participating Entity will be responsible for its respective share of election expenses incurred through the date that the election is canceled as allocated to the cancelling entity based on the formula in the Cost

Estimate, adjusted for the actual expenses incurred by the County through the date of the cancellation. When the Participating Entity cancels its election, the County will recalculate the allocation percentages among the remaining Entities according to the formula used in the Cost Estimate.

D. In the event there are any expenses associated with processing a ballot arising from a write-in candidate, the Participating Entity that received the declaration will bear the expenses.

E. A Participating Entity that establishes an early voting polling place, other than one that was mutually agreed upon by all Participating Entities, will bear the expense of doing so. The Cost Estimate for each individual Participating Entity will include additional polling locations for each Participating Entity, as set forth in Exhibit C.

VIII. General Provisions

A. Legal Notices

Each of the Participating Entities will be individually responsible for preparing the election orders, resolutions, notices, and other pertinent documents for adoption or execution by its own respective governing board and for all related expenses. ***Each of the Participating Entities will be individually responsible for obtaining appropriate preclearance, if necessary, from the United States Department of Justice.*** The Travis County Clerk will provide each Participating Entity information on changes affecting the Participating Entity's election, such as polling place changes and changes in voting equipment, when such changes are confirmed, verified, or otherwise become known to the clerk's office. Each of the Participating Entities will be individually responsible for posting or publishing election notices and for all related expenses. Each of the Participating Entities further will be individually responsible for election expenses incurred in relation to any polling place that is not a common polling place as designated in this agreement.

B. Communication

Throughout this agreement's term, the Travis County Clerk or the clerk's employee will meet as necessary with the designated representative of each Participating Entity to discuss and resolve any problems that might arise regarding the joint election.

C. Custodian

The Travis County Clerk will serve as the custodian of the keys to the ballot boxes for voted ballots in the joint election.

D. Effective Date

This agreement takes effect upon its complete execution by all Participating Entities and the County. The obligation of each Participating Entity to the County under this agreement will not end until the entity pays the County its share of the joint election costs.

IX. Miscellaneous Provisions

A. Amendment/Modification of Exhibits A, B, and C

1. The Participating Entities acknowledge and agree that Exhibits A, B, and C may be amended to add or remove entities wishing to participate or cease participating in the agreement. The Participating Entities agree to future amendments of Exhibits A, B, and C and authorize the County to enter into such amendments without the Entities' having to sign the future amendments. The County agrees to notify all Participating Entities of any amendments to Exhibits A, B, and C.

2. Except as otherwise provided, this Agreement may not be amended in any respect whatsoever except by a further agreement in writing, duly executed by the parties to this agreement. No official, representative, agent, or employee of the County has any authority to modify this Agreement except by express authorization from the Travis County Commissioners Court. No official, representative, agent, or employee of any Participating Entity has any authority to modify this agreement except by express authorization from the governing body of the respective Participating Entity. The Travis County Clerk may propose necessary amendments to this agreement in writing in order to conduct the joint election smoothly and efficiently. The Travis County Commissioners Court and the governing body of the respective Participating Entity, however, must approve any proposal.

B. Notice

Any notice to be given in this agreement, by any party to the other, must be in writing and delivered personally or by certified mail, return receipt requested, to the proper party at the addresses listed in Exhibit A.

Each party may change the address for notice to it by giving notice of the change under this section's terms.

C. Force Majeure

In the event that the County cannot perform any of its obligations in this agreement or is interrupted or delayed by any occurrence not occasioned by its own conduct, whether it be an act of God, the result of war, riot, civil commotion, sovereign conduct, or like reason, then the County will be excused from performing for such period of time as is reasonably necessary after such occurrence to remedy its effects.

D. Venue and Choice of Law

The Participating Entities agree that venue for any dispute arising under this agreement will lie in the appropriate courts of Austin, Travis County, Texas. This agreement is governed by and construed under the laws of Texas and the United States of America.

E. Entire Agreement

This agreement contains the parties' entire agreement relating to the rights granted and the obligations assumed in it, and it supersedes all prior agreements, including prior election services contracts relating to each Participating Entity's May 10, 2014 election. Any prior agreements, promises, negotiations, or representations not expressly contained in this agreement are of no force or effect. Any oral representations or modifications concerning this agreement have no force or effect, except a subsequent amendment in writing as this agreement provides.

F. Severability

If any provision of this agreement is found to be invalid, illegal or unenforceable by a court of competent jurisdiction, such invalidity, illegality, or unenforceability will not affect the agreement's remaining provisions; and its parties will perform their obligations under the agreement's surviving terms and provisions.

G. Breach

In the event that any Participating Entity or the County breaches any of its obligations under this agreement, the non-breaching party will be entitled to pursue any and all rights and remedies allowed by law.

H. Payments from Current Revenues

Payments made by the Participating Entities in meeting their obligations under this agreement will be made from current revenue funds available to the governing body of the respective Participating Entity. Payments made by the County in meeting its obligations under this agreement will be made from current revenue funds available to the County.

I. Other Instruments

The Participating Entities agree that they will execute other and further instruments or any documents as may become necessary or convenient to effectuate and carry out this agreement's purposes.

J. Third Party Beneficiaries

Except as otherwise provided in this agreement, nothing in this agreement, expressed or implied, is intended to confer upon any person, other than the parties to it, any of its benefits, rights or remedies.

K. Other Joint Election Agreements

The County and the Participating Entities expressly understand and acknowledge that each may enter into other joint election agreements with other political subdivisions, to be held on Election

Day and at common polling places covered by this agreement, and that the addition of other political subdivisions as parties to this agreement will require amending Exhibits A, B, and C.

L. Mediation

When mediation is acceptable to both parties in resolving a dispute arising under this agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Texas Civil Practice and Remedies Code section 154.023. Unless both parties are satisfied with the mediation's result, the mediation will not constitute a final and binding resolution to the dispute. All communications within the scope of the mediation will remain confidential as described in section 154.023, unless both parties agree, in writing, to waive the confidentiality. Despite this, the parties intend to fully comply with the Texas Open Meetings Act and the Texas Public Information Act whenever applicable. The term "confidential" as used in this agreement has the same meanings as defined and construed under the Texas Public Information Act and the Texas Open Meetings Act.


M. Counterparts

This Agreement may be executed in multiple counterparts, all of which will be deemed originals and with the same effect as if all parties to it had signed the same document. All of such counterparts will be construed together and will constitute one and the same agreement.

The parties to this agreement have executed it in multiple copies, each of equal dignity, on this ____ day of _____, 2019.

TRAVIS COUNTY

BY: _____
Sarah Eckhardt
County Judge

BY: 
Dana DeBeauvoir
County Clerk

PARTICIPATING ENTITIES

Name of Participating Entity _____

Address _____

Name of Authorized Signatory _____

Signature _____

Date signed _____

EXHIBIT A

Municipalities

City of Bee Cave
City of Cedar Park
City of Lakeway
City of Round Rock
Village of Briarcliff

School Districts

Lake Travis ISD
Pflugerville ISD

MUDs

Cascades MUD
W TC MUD No. 3
W TC MUD No. 5

Other

River Place Limited District

EXHIBIT B

MAPS AND DESCRIPTIONS

GA19 Participating Jurisdictions



Travis County
Tax Office

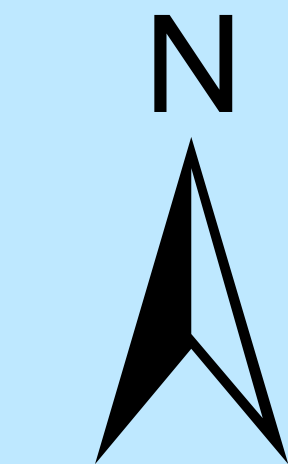
Voter Registration
Division

Author: Scott Amham

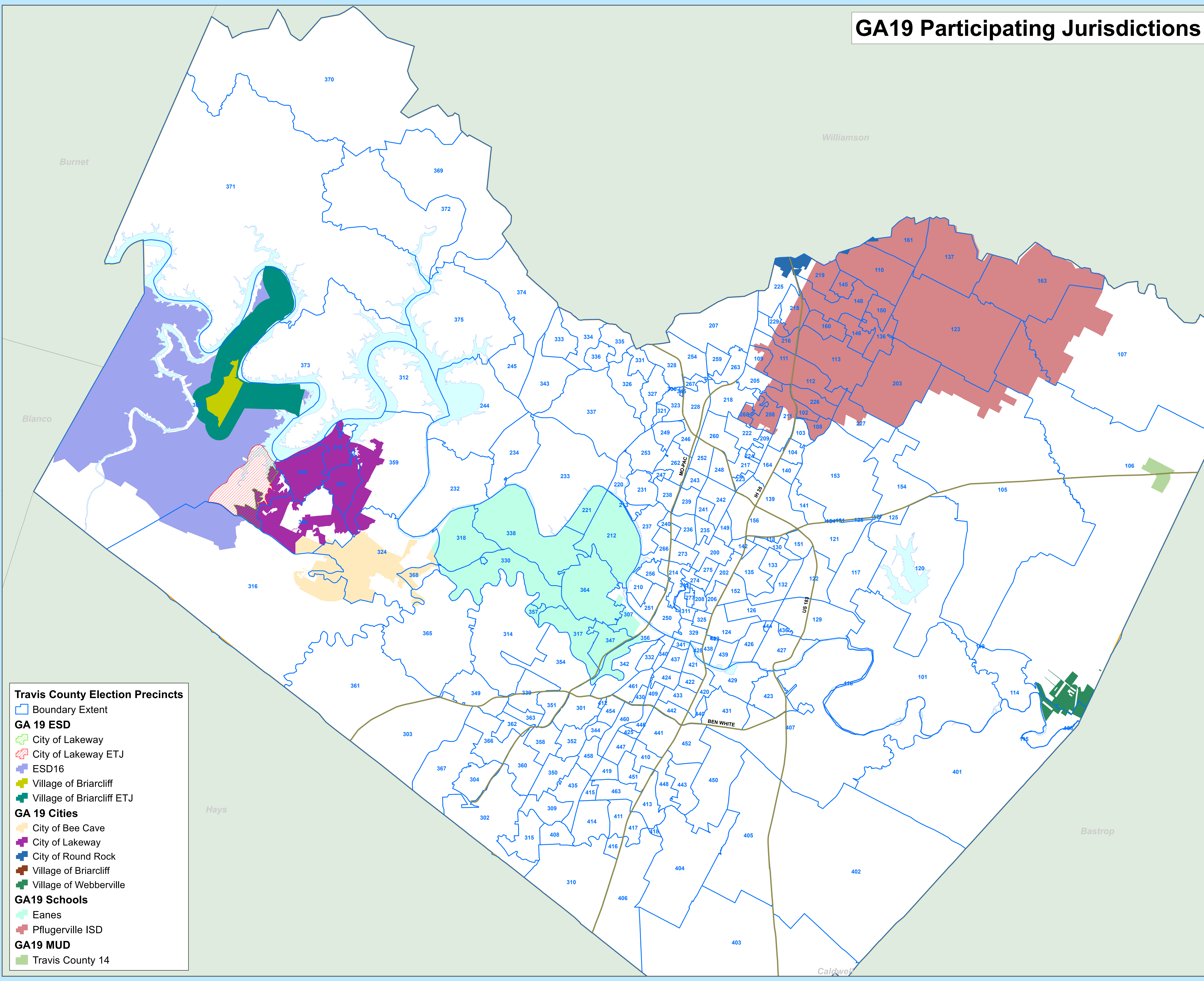
512-854-9473



Print Date: 3/15/2019



This map was created by the Travis County Voter Registration Department as a working map and is not warranted for any other use. No warranty is made regarding its accuracy and completeness. It is our goal to maintain and provide accurate maps and data, however omissions and errors may occur. Thank you for your consideration.



Travis County Election Precincts
Boundary Extent

GA 19 ESD
City of Lakeway
City of Lakeway ETJ
ESD16
Village of Briarcliff
Village of Briarcliff ETJ

GA 19 Cities
City of Bee Cave
City of Lakeway
City of Round Rock
Village of Briarcliff
Village of Webberville

GA19 Schools
Eanes
Pflugerville ISD

GA19 MUD
Travis County 14

EXHIBIT C

COST ESTIMATE

			\$ 279,127.22	10%	\$ 3,200.00	AT 75% Billing				
	Voters	Percentage of Voters	Costs	Admin	Equipment	Total	Costs	Admin	Equipment	Total
Village of Briarcliff	1,475	1.06%	\$ 2,968.41	\$ 296.84	\$ 34.03	\$ 3,299.28	\$ 2,226.31	\$ 222.63	\$ 25.52	2,474.46
City of Lakeway	13,758	9.92%	27,687.73	2,768.77	317.42	30,773.92	20,765.80	2,076.58	238.07	23,080.44
City of Round Rock	687	0.50%	1,382.58	138.26	15.85	1,536.69	1,036.94	103.70	11.89	1,152.52
Village of Webberville	250	0.18%	503.12	50.31	5.77	559.20	377.34	37.73	4.33	419.40
ESD 16 (adds \$3k to adver	6,323	4.56%	15,724.92	1,572.49	145.88	17,443.29	11,793.69	1,179.37	109.41	13,082.47
Travis County MUD 14	1,061	0.76%	2,135.24	213.52	24.48	2,373.24	1,601.43	160.14	18.36	1,779.93
Eanes ISD	28,908	20.84%	58,176.83	5,817.68	666.96	64,661.47	43,632.62	4,363.26	500.22	48,496.10
Pflugerville ISD	86,236	62.18%	173,548.39	17,354.84	1,989.61	192,892.84	130,161.29	13,016.13	1,492.21	144,669.63
	138,698	1	282,127.22	28,212.71	3,200.00	313,539.93	211,595.42	21,159.53	2,400.00	235,154.95

Travis County Early Voting Sites for the May 4, 2019 Local Election

Sitios de Votación Adelantada del Condado de Travis, para la Elección del 4 de Mayo

Early Voting begins Monday, April 22 and ends Tuesday, April 30

La votación adelantada comienza el lunes 22 de abril y termina el martes 30 de abril

Monday—Saturday (7am-7pm), Sunday (Noon—6pm)

lunes—sábado (7am—7pm), domingo (mediodía—6pm)

Subject to Change



DANA DEBEAUVOIR,
COUNTY CLERK

County Tax Office, Pflugerville	15822 Foothill Farms Loop	Pflugerville
Randalls Flagship - West Lake Hills	3300 Bee Caves Rd	Austin
Randalls Lakeway	2301 Ranch Rd 620 S	Lakeway
Travis County Airport Office	5501 Airport Blvd	Austin



DANA DEBEAUVOIR,
COUNTY CLERK

TRAVIS COUNTY MOBILE VOTING LOCATIONS

for the May 4, 2019 Local Election

Monday, April 22 through Tuesday, April 30

*subject to change
revised Feb 27, 2019*

Guía de los Sitios Móviles para Votación Adelantada de la Elección del 4 de mayo 2019

lunes, 22 de abril – martes, 30 de abril

MONDAY, APRIL 22 *(lunes, 22 de abril)*

Blackhawk Amenity Center	3111 Speidel Dr	Pflugerville	10am - 5pm
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TUESDAY, APRIL 23 *(martes, 23 de abril)*

Elgin High School	14000 County Line Rd	Elgin	9am - 5pm
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WEDNESDAY, APRIL 24 *(miércoles, 24 de abril)*

Lakeway Heritage Center	963 Lohmans Crossing Rd.	Lakeway	9am - 5pm
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THURSDAY, APRIL 25 *(jueves, 25 de abril)*

Eanes ISD Admin	601 Camp Craft Rd	Austin	9am - 5pm
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FRIDAY, APRIL 26 *(viernes, 26 de abril)*

Pflugerville Rock Gym	702 W Pecan St	Pflugerville	8am - 5pm
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SATURDAY, APRIL 27 *(sabado, 27 de abril)*

Briarcliff POA	22801 Briarcliff Dr	Spicewood	9am - 6pm
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SUNDAY, APRIL 28 *(domingo, 28 de abril)*

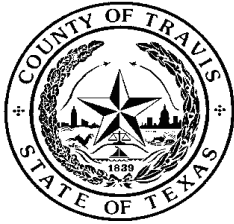
Ce-Bar Fire Department	353 Commons Ford Rd	Austin	12n - 6pm
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MONDAY, APRIL 29 *(lunes, 29 de abril)*

Pflugerville Public Library	1008 W. Pfluger St	Pflugerville	10am - 6pm
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TUESDAY, APRIL 30 *(martes, 30 de abril)*

Pflugerville Public Library	1008 W. Pfluger St	Pflugerville	10am - 6pm
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Dana DeBeauvoir
County Clerk

Election Day Vote Centers Saturday May 4, 2019 (by precinct)

Subject to Change

Sitios de Votación para el Día de Elección, sábado 4 de Mayo, 2019 (por precinto)

Polls are open 7 am - 7 pm; Horas de Servicio 7 am - 7 pm

VOTE CENTER ELECTION *Elección del centros de votación* On Election Day, eligible Travis County VOTERS MAY VOTE AT ANY of the locations listed on this page. Voters are NOT limited to only voting in the precinct where they are registered to vote; En el día de elección votantes elegibles del Condado de Travis podrán votar en cualquier sitio indicado en esta página. Votantes tienen más opciones en dónde votar, sin limitarse al precinto en donde están registrados para votar.

PCT	Polling Station	Address	Combined Precincts
101	Dailey Middle School	14000 Westall St.	114
106	Elgin High School	14000 County Line Rd	105 ; 107
108	Our Savior Lutheran	1513 E Yager Ln	102
109	Parmer Lane Elementary	1806 W Parmer Ln	111
110	Park Crest Middle School	1500 N Railroad Ave	161
113	Wieland Elementary	216 E Wells Branch Pkwy	112
123	Kelly Lane Middle School	18900 Falcon Pointe Blvd.	136 ; 137 ; 163
148	County Tax Office, Pflugerville	15822 Foothill Farms Loop	145 ; 146 ; 150 ; 160 ; 229

PCT	Polling Station	Address	Combined Precincts
203	Boulder Ridge Clubhouse	3300 Killingsworth Ln	227
211	St. Mark United Methodist	601 W Braker Ln	205 ; 218 ; 226 ; 258 ; 268
219	Caldwell Elementary	1718 Picadilly Dr	215 ; 216 ; 225
308	Briarcliff POA Community Center	22801 Briarcliff Dr	316; 373
319	Lakeway Activity Center	105 Cross Creek	306
320	Randalls Lakeway	2301 Ranch Rd 620 S	346 ; 324 ; 359
330	Laura Bush Community Library	9411 Bee Caves Rd	318 ; 338 ; 357
364	Randalls Flagship - West Lake Hills	3300 Bee Caves Rd	212 ; 221 ; 307 ; 317 ; 347 ; 356 ; 368

revised March 11, 2019



City of Round Rock

Agenda Item Summary

Agenda Number: H.2

Title: Consider a resolution authorizing the Mayor to execute a Real Estate Contract with Joe Douglas Johnson, Camilia Nicole Johnson, and Corey Johnson for the purchase of property described as Original Plat of the City of Round Rock, Block 36, Lots 1, 3, 5, 6, 7, 8, 9, 10 necessary for the construction of the Library Project.

Type: Resolution

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Laurie Hadley, City Manager

Cost: \$4,450,000.00

Indexes: General Self-Financed Construction

Attachments: Resolution, Exhibit A

Department: City Manager's Office

Text of Legislative File 2019-0159

This real estate contract is to purchase the land from the Johnson family necessary to build the new library.

Cost: \$4,450,000

Source of Funds: *General Self-Financed Construction*

RESOLUTION NO. R-2019-0159

WHEREAS, the City desires to purchase property described in Exhibit “A” as Tracts I-VI (“Property”) necessary for the construction of the new library; and

WHEREAS, Joe Douglas Johnson, Camilia Nicole Johnson, and Corey Johnson, the owners of the Property, have agreed to sell said Property to the City, 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 Real Estate Contract with Joe Douglas Johnson, Camilia Nicole Johnson, and Corey Johnson for the purchase of the above described Property, a copy of said Real Estate 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 11th day of April, 2019.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk

EXHIBIT

"A"

REAL ESTATE CONTRACT

1. PARTIES. The parties to this Contract are:

- a. Sellers: **Joe Douglas Johnson**
Camilia Nicole Johnson
Corey Johnson, individually and as
Independent Executor of the Estate of Cora
Ellen Johnson
c/o Law Office of Tony A. Pitts
P.O. Box 5369
Round Rock, TX 78683
- b. Purchaser: **City of Round Rock**
221 E. Main St.
Round Rock, TX 78664
512-218-5400

2. PROPERTY. Sellers agrees to sell and convey, and Purchaser agrees to purchase and pay for certain real property in Round Rock, Williamson County, Texas, described as follows:

Tract I: Lots 6 and 7, Block 36, of CITY OF ROUND ROCK, Williamson County, Texas, according to the map or plat thereof recorded in Cabinet A, Slides 190-191, Plat Records, Williamson County, Texas.

Tract II: Lots 8 and 9, Block 36, of CITY OF ROUND ROCK, Williamson County, Texas, according to the map or plat thereof recorded in Cabinet A, Slides 190-191, Plat Records, Williamson County, Texas.

Tract III: Lot 10, Block 36, of CITY OF ROUND ROCK, Williamson County, Texas, according to the map or plat thereof recorded in Cabinet A, Slides 190-191, Plat Records, Williamson County, Texas.

Tract IV: Lot 5, Block 36, of CITY OF ROUND ROCK, Williamson County, Texas, according to the map or plat thereof recorded in Cabinet A, Slides 190-191, Plat Records, Williamson County, Texas.

Tract V: Lot 3, Block 36, of CITY OF ROUND ROCK, Williamson County, Texas, according to the map or plat thereof recorded in Cabinet A, Slides 190-191, Plat Records, Williamson County, Texas.

Tract VI: Lot 1, Block 36, of CITY OF ROUND ROCK, Williamson County, Texas, according to the map or plat thereof recorded in Cabinet A, Slides 190-191, Plat Records, Williamson County, Texas.

Together, with all of Sellers' rights and appurtenances belonging therewith, hereinafter referred to as the "Property."

3. PURCHASE PRICE. Purchaser agrees to pay as the purchase price for the Property the sum of **\$4,200,000.00** in cash at Closing, which is to be apportioned as follows:

- a) \$1.8 million to Joe Douglas Johnson;
- b) \$1.2 million to Camilia Nicole Johnson; and
- c) \$1.2 million to Corey Johnson.

This apportionment is made subject to any and all costs payable by Sellers, which shall be taxed equally between them.

4. RELOCATION COST REIMBURSEMENT. Purchaser agrees to reimburse Sellers for their costs of moving and relocating in the amount of \$250,000.00 in cash at Closing, which shall be apportioned as follows:

- a) \$212,500.00 to Joe Douglas Johnson;
- b) \$25,000.00 to Camilia Nicole Johnson; and
- c) \$12,500.00 to Corey Johnson.

5. ESCROW DEPOSIT. Upon execution of this Contract, by both Sellers and Purchaser, Purchaser agrees to deliver a cash Escrow Deposit in the amount of \$5,000.00, to be held in escrow by the Title Company as Escrow Agent pursuant to the terms of this Contract. Failure by Purchaser to timely deposit the Escrow Deposit with the Title Company shall result in the automatic termination of this Contract, and neither party hereto shall have any further obligation thereunder. If requested by Purchaser, the Escrow Agent is authorized to place the Escrow Deposit in an interest bearing account at a financial institution whose accounts are insured by an agency of the federal government, and the interest earned on such funds shall be paid to the party entitled to receive the Escrow Deposit under the terms of this Contract.

6. INDEPENDENT CONTRACT CONSIDERATION. On or before the Effective Date, Purchaser shall deliver to Sellers in cash the sum of \$1,000.00 (the "Independent Contract Consideration"), which amount has been bargained for and agreed to as consideration for Purchaser's exclusive option to purchase the Property and the right of investigation and inspection granted herein, and for Sellers' execution and delivery of this Contract. The Independent Contract Consideration is in addition to and independent of all other consideration provided in this Contract, and is nonrefundable in all events.

7. TITLE COMMITMENT AND SURVEY.

a. Title Commitment. Within ten (10) days after the Effective Date, Purchaser shall cause a Commitment for Title Insurance ("Title Commitment") to be issued by Georgetown Title Company at 1717 N. Mays, Suite 100, Round Rock, TX 78664 (the "Title Company"). The Title Commitment shall set forth the status of the title of the Property and show all liens, claims, encumbrances, easements, rights-of-way, encroachments, reservations, restrictions, and any other matters affecting the Property. The Title Company shall furnish a copy of all documents referred to in the Title Commitment, including, but not limited to, deeds, lien instruments, plats, reservations, restrictions, and easements.

b. Survey. Within twenty days (20) days after the Effective Date, Purchaser shall cause a current Category 1A, Condition II survey or surveys of the Property acceptable to the Title Company for the purposes of issuing the Title Commitment ("Survey") prepared by a registered or licensed public surveyor. The Survey(s) shall include: (i) the perimeter boundaries and dimensions of the Property; (ii) the location of all improvements, any easements, set-back lines, encroachments, overlaps, roadways or waterway; and (iii) the location of any flood plain which exists on the Property or any portion thereof.

c. Review of Title Commitment and Survey. Purchaser shall have ten (10) days after receipt of the Title Commitment and Survey, in which to examine those documents and to specify to Sellers those items reflected thereon which Purchaser will accept as permitted exceptions to title ("Permitted Exceptions"), and those items which Purchaser finds objectionable ("Title Objections"), Sellers, at its discretion, may correct or remove all Title Objections, give Purchaser written notice thereof, and deliver an amended Title Commitment and Survey reflecting the correction or deletion of such matter. If Purchaser does not deliver to Sellers ten (10) days after receipt of the Title Commitment and supporting documents and updated survey, a written notice specifying those items which are Permitted Exceptions and Title Objections within the above-stated time period, then all of the items reflected on the Title Commitment shall be considered to be Permitted Exceptions.

d. Uncorrected Title Objections. If Sellers fails to cause all of the Title Objections to be corrected within fifteen (15) days after receipt of Purchaser's notice to Sellers of the Title Objections, Sellers shall give written notice to Purchaser that Sellers cannot or will not correct or remove all of the Title Objections, and Purchaser shall have the following rights only:

(1) Purchaser may terminate this Contract by giving Sellers written notice thereof within fifteen (15) days after receipt of written notice from Sellers, in which event the Escrow Deposit shall be returned to Purchaser, and both parties shall be released from all further obligations under this Contract; or

(2) Purchaser may elect to purchase the Property subject to the Title Objections not so corrected or removed, in which event the uncorrected and unremoved Title Objections shall be deemed waived by Purchaser and shall thereafter be Permitted Exceptions under this Contract.

8. FEASIBILITY PERIOD. Purchaser shall have until thirty (30) days after the Effective Date (the "Feasibility Period"), for the right of investigation and inspection of the Property to determine whether or not Purchaser desires to proceed with the purchase of the Property. Purchaser shall have the option of extending the Feasibility Period an additional thirty (30) days by paying an additional Escrow Deposit of \$5,000 to the Title Company.

a. Access and Indemnity. Purchaser and Purchaser's agents shall have the right of access to the Property during the Feasibility Period for the purpose of conducting such investigation and inspection. Purchaser agrees to provide Sellers with copies of all written tests, studies, investigations, and other reports conducted by Purchaser, Purchaser's engineers, and other representatives of Buyer pertaining to the Property. Purchaser shall not cause or permit damage or injury to be done to the Property, and Purchaser shall repair any damage or injury to the Property resulting from Purchaser's investigation and inspection of the Property. Purchaser shall indemnify and hold harmless Sellers on account of any claims, causes of action, damages, costs and expenses (including attorney's fees) arising out of or relating to the acts of Purchaser, its agents and employees under the provisions of this section. This indemnity shall survive the termination of this Contract.

b. Termination of Contract. If during or upon expiration of the Feasibility Period Purchaser determines not to go forward and close this transaction, then Purchaser shall, no later than the date of expiration of the Feasibility Period, give Sellers written notification of such. However, if Purchaser does not timely provide written notice to

Sellers of Purchaser's acceptance or non-acceptance of the Property by the expiration of the Feasibility Period by such date then it shall be conclusively deemed that the Property is suitable for Purchaser's intended use. If Purchaser gives timely written notice of its non-acceptance of the Property, the Earnest Money shall be refunded to the Purchaser, and both parties shall be released from all further obligations under this Contract. If for any reason Purchaser fails to close this transaction, Purchaser shall deliver to Sellers all written soil, utility, environmental and feasibility reports prepared by or for Purchaser related to the Property which are in possession or in control of Purchaser. It is agreed by the parties that in the event that this Contract is terminated after the expiration of the Feasibility Period, for any reason other than a default by Sellers, the Earnest Money shall be retained by Sellers as liquidated damages.

9. PRE-CLOSING REPRESENTATIONS OF SELLERS. Sellers have not made any representations or warranties of any kind to Purchaser not expressly contained in this Contract. Where the terms "to the best of Sellers' knowledge" or words of similar import are used herein, it shall mean Sellers' actual, current knowledge and not any constructive or imputed knowledge. Moreover, no inference or implication shall be drawn that Sellers have made any independent investigation with respect to the subject of the representation or warranty based on knowledge, and purchaser agrees that Sellers have no such duty. Subject to the foregoing, Sellers represent, covenant and warrant as follows:

a. The persons signing this Contract have the full right, power, and authority to enter into this Contract on behalf of Sellers.

b. The Property is free and clear of all mechanic's liens, liens, mortgages, or encumbrances of any nature except those which are to be satisfied on or before Closing.

c. Sellers have not entered into an earnest money contract with any other potential purchasers.

d. There is no suit, action, legal or other proceeding pending, or to the best of Sellers' knowledge, threatened, which affect title to the Property.

e. Sellers have no knowledge of any pending or threatened requests, applications or proceedings to alter or restrict the zoning or other use restrictions applicable to the Property; Sellers have received no notice from any municipal, state, federal or other governmental authority of zoning, building, fire, water, use, health, environmental or other statute, ordinance, code or regulatory violations issued in respect of the Property which have not been heretofore corrected.

f. Sellers have never, nor, to Sellers' best knowledge, has any previous owner of the Property or any other party ever generated, stored or disposed of any Hazardous Substances on the Property or transported from the Property to any other location. Sellers shall upon the effective date hereof, deliver to Purchaser all written soil, utility, environmental and feasibility reports previously prepared relating to the Property, which are in the possession or under the control of Sellers. "Hazardous Substances" means any substance which is (i) designated, defined, classified, or regulated as a hazardous substance, hazardous material, hazardous waste, pollutant, or contaminant under the Resource Conservation and Recovery Act and/or the Comprehensive Environmental Response Compensation and Liability Act, (ii) petroleum hydrocarbon, including crude oil or any fraction thereof and all petroleum products, (iii) PDB's, (iv) lead (v) friable asbestos, (vi) flammable explosives, (vii) infectious materials, or (viii) radioactive materials.

g. Sellers have not retained any person or firm to file a notice of protest against, or to commence any action to review, any real property tax assessment against the Property or any portion thereof and, to Sellers' best knowledge, no such action has been taken by or on behalf of any other party.

h. Sellers have not received any notice of any condemnation or similar proceedings having been instituted or threatened against the Property or any part thereof nor, to Sellers' best knowledge, is any such proceeding threatened or contemplated of which Sellers have not received formal notice.

i. There are no outstanding written or oral leases or agreements relating to the use or possession of the Property, except as set forth in Exhibit "A" hereto.

j. Sellers will not, without the prior written consent of Purchaser, permit any structural modifications or additions to the Property.

k. Sellers will promptly pay and discharge all ownership, leasing, operating, management and maintenance fees, costs and expenses incurred with respect to periods prior to the Closing, specifically including, without limitation, costs and expenses relating to materials supplied and labor performed.

l. At Closing, Sellers will have good and indefeasible title to the Property, subject only to the Permitted Exceptions and matters of record in the real property records of Williamson County, Texas.

m. There are no parties in possession of any portion of the Property except for the Sellers, Sellers' agents or employees, or Sellers' tenants. To the best of Sellers' knowledge, there are no adverse parties in possession of any portion of the Property whatsoever.

n. All assessments, payback agreements or other charges for utilities, roads, or the widening of such roads, or any other fees imposed by any governmental or quasi-governmental authority with respect to the Property which are due and payable have been paid in full and Sellers have knowledge of any future assessments or fees that may become due and payable.

10. PRE-CLOSING REPRESENTATIONS OF PURCHASER.

a. Purchaser's Authority. The person signing this Contract has the full right, power and authority to enter into this Contract on behalf of Purchaser.

11. CLOSING.

a. Date and Place. The Closing of the sale of the Property by Sellers to Purchaser shall occur on or before thirty (30) days after the expiration of the Feasibility Period. The Closing shall occur in the offices of the Title Company.

b. Sellers' Obligations at Closing. At the Closing, Sellers shall deliver, or cause to be delivered, to Purchaser the Following:

(1) General Warranty Deed. Sellers shall execute and deliver to the Title Company for recording General Warranty Deeds conveying the Property to Purchaser, subject to the Permitted Exceptions and all approved easements and restrictions of record which affect the Property.

(2) Owner's Title Policy. Sellers shall cause the Title Company to issue and deliver to Purchaser an owner's policy of title insurance ("Owner's Title Policy") in the amount of the Purchase Price insuring that Purchaser is owner of the Property, subject only to the Permitted Exceptions to be attached to the Deeds as an exhibit, and the standard printed exceptions included in the then current Owner Title Policy form promulgated by the State Board of Insurance. The standard exception for standby fees and taxes shall be limited to the year in which the Closing occurs.

(3) Certificate of Non-Foreign Status. Sellers shall deliver to Purchaser an affidavit on behalf of Sellers certifying the non-foreign status of Sellers.

(4) Closing Statement. Sellers shall execute and deliver to Purchaser and to the Title Company the closing statement in the form to be provided by the Title Company with the Purchase Price, closing costs, prorations and credits provided for in this Contract.

(5) Other Instruments. Sellers shall execute and deliver such other documents as are customarily executed in Texas in connection with the conveyance of real property, including all required releases, certificates, affidavits, and any other instruments required by the Title Company.

(6) Possession. Sellers shall deliver possession of the Property to Purchaser not later than ninety (90) days after the Closing Date. Sellers agree to cease operation of the bar at 200 E. Liberty Ave., Round Rock, TX 78664 on or before the Closing Date.

c. Purchaser's Obligations at Closing.

(1) Payment of Purchase Price. At the Closing, Purchaser shall pay the Purchase Price and the Relocation Cost Reimbursement, subject to any adjustments for prorations and other credits provided for in this Contract.

(2) Acceptance of Documents. Purchaser shall accept all documents executed and delivered by Sellers and the conveyances, transfers, and assignments evidenced thereby, and shall execute and deliver all such documents that require Purchaser's execution.

(3) Certificate of Authority. If required, Purchaser shall deliver to the Title Company a certificate of authority on behalf of Purchaser authorizing the transaction described in this Contract and the execution of the documents by the appropriate person, in form and substance reasonably required by the Title Company.

(4) Closing Statement. Purchaser shall execute and deliver to Sellers and to the Title Company the closing statement in the form to be provided by the Title Company with the Purchase Price, closing costs, prorations and credits provided for in this Contract.

d. Tax Proration. Real estate, ad valorem, and other state, county and municipal taxes, charges and assessments (special or otherwise), on the basis of the calendar year for which the same are levied, imposed or assessed, and regardless of when the same become a lien or are payable, shall be adjusted between Sellers and Purchaser and shall be prorated on a per diem basis as of midnight of the day preceding the date of Closing.

If the rate of any such taxes, rents, charges or assessments shall not be fixed prior to the Closing, the adjustment thereof at the Closing shall be upon the basis of the rate for the preceding calendar year applied to the latest assessed valuation (or other basis of valuation) between Sellers and Purchaser, if necessary, when the actual tax figures are available.

e. Closing Costs. Sellers and Purchaser each agree to pay the following costs at the Closing:

(1) Paid By Sellers. Sellers agrees to pay the cost of preparing the General Warranty Deeds and other conveyance documents; the cost of preparing and recording any releases and other documents necessary to convey the Property in accordance with this Contract; the cost of curing any Title Objections; Sellers' attorney fees; and any other similar closing costs customarily paid by a seller of real property, save and except any escrow or closing fee charged by the Title Company.

(2) Paid By Purchaser. Purchaser agrees to pay the premium for the Owner's Title Policy, the cost of the Survey, recording fees, copies of restrictions and easements, Purchaser's attorney fees, the entirety of any escrow or closing fee charged by the Title Company, and any other similar closing costs customarily paid by a purchaser of real property.

12. SPECIAL PROVISIONS.

a. Bar Count. Sellers and Purchaser agree that, notwithstanding the sales transaction contemplated herein, Sellers shall retain their number for the bar count in downtown Round Rock, so long as they establish and/or continue to operate a bar within twelve (12) months after the Closing Date.

b. Dedication. Sellers and Purchaser acknowledge that it is the expressed intent of Purchaser in acquiring the Property to construct a public library upon it. In the event that Purchaser does, in fact, construct a public library upon the Property, Purchaser agrees to dedicate a prominent space in such library to Joe Lee Johnson and Mellownie Jefferson Johnson, which shall be evinced by a noticeable visual display no smaller 3" x 6" that clearly depicts their name, likeness, and a brief statement about their significance to the Round Rock community.

13. DEFAULTS AND REMEDIES.

a. Purchaser's Default and Sellers' Remedies. If Purchaser is in default under this Contract, Sellers may, at Sellers' sole option and as Sellers' sole remedy, terminate this Contract by written notice to Purchaser and receive the Escrow Deposit and Additional Escrow Deposit (which shall be delivered to Sellers by the Title Company on receipt of written notice from Sellers that Purchaser has defaulted under this Contract), it being agreed between Purchaser and Sellers that such amount shall be liquidated damages for a default of Purchaser under this Contract because of the difficulty, inconvenience, and uncertainty of ascertaining actual damages for such default. This limitation of remedies provision shall not apply to or affect Purchaser's indemnities of Sellers in this Contract or Sellers' right to enforce, through specific performance or otherwise, the Special Provisions detailed in Paragraph 12 of this Contract.

b. Sellers' Default and Purchaser's Remedies. If Sellers are in default under this Contract, Purchaser may, at Purchaser's sole option and as Purchaser's sole remedy, do either of the following: (1) terminate this Contract by written notice delivered to Sellers on or before the date of Closing and receive the Escrow Deposit, which shall be delivered to Purchaser by the Title Company on receipt of written notice from Purchaser that Sellers have defaulted under this Contract, or (2) enforce specific performance of this Contract against Sellers.

c. Attorney's Fees. If either party to this Contract defaults in the performance required hereunder, and the non-defaulting party employs an attorney to enforce the terms hereof, such non-defaulting party shall be entitled to reasonable attorney's fees from the defaulting party.

14. BROKERS AND COMMISSIONS.

a. Broker. Sellers agrees to indemnify and hold Purchaser harmless from any broker commission. Any and all broker commissions are the sole obligation of Purchaser.

b. Notice. As required by the Texas Real Estate License Act, a broker has advised Purchaser that Purchaser should have the abstract covering the Property examined by an attorney of Purchaser's own selection, or that Purchaser should be furnished with or obtain a policy of title insurance. By signing this Contract, Purchaser acknowledges receipt of this notice.

15. MISCELLANEOUS.

a. Assignment of Contract. This Contract may not be assigned by Purchaser without the prior written consent of Sellers.

b. Survival of Covenants. Any of the representations, warranties, covenants, and agreements of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the Closing shall survive the Closing and shall not be merged therein.

c. Notice. Any notice required or permitted to be delivered under this Contract shall be deemed received on the earlier of (i) actual receipt by mail, Federal Express or other overnight delivery service, telecopy, or hand delivery, or (ii) three (3) business days after being sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to Sellers or Purchaser, as the case may be, at the address stated in Section 1. Copies of all notices shall also be sent concurrently to Sellers' or Purchaser's attorney, as appropriate, at the following addresses:

Sellers' Attorney:

Tony Pitts
1901 E. Palm Valley Blvd.
Round Rock, Texas 78664
Telephone Number: (512) 825-5545
Facsimile Number: (512) 244-4355
Email: tapitts@taplawfirm.com

Purchaser's Attorney:

Steve Sheets
309 E. Main St.
Round Rock, TX 78664
Telephone Number: (512) 738-8727
Facsimile Number: (512) 255-8986
Email: steve@scrllaw.com

A party may change its address or the address of its attorney for notice upon written notice to the other party pursuant to the terms hereof.

d. Texas Law to Apply. This contract shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created by this contract are performable in Williamson County, Texas, which is the county of jurisdiction and venue for all disputes arising hereunder.

e. Parties Bound. This Contract shall be binding upon and inure to the benefit of the parties to this Contract and their respective heirs, executors, administrators, legal representatives, successors and assigns, subject to the limitations in paragraph 15a.

f. Legal Construction. In case 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, such invalidity, illegality, or unenforceability shall not affect any other provision of the Contract, and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in the Contract.

g. Prior Agreements Superseded. This Contract constitutes the sole and only agreement of the parties to the Contract and supersedes any prior understanding or written or oral agreements between the parties concerning the purchase of the Property.

h. Gender. Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

i. Effective Date. The Effective Date of this Contract shall be the date the Contract is escrowed with the title company together with the Earnest Money.

j. Calendar Days and Deadlines. As used herein, "days" shall mean and refer to calendar days but if a deadline falls or notice is required on a Saturday, Sunday or legal banking holiday, the deadline or notice shall be extended to the next calendar day which is neither a Saturday, Sunday nor a legal banking holiday.

k. Multiple Counterparts. Counterparts of this Contract may be executed in one or more counterparts, and all so executed shall constitute one (1) agreement, binding upon the parties hereto, and notwithstanding that all of the parties are not signatories to the same counterparts.

l. Joint Drafting of Agreement. This Agreement shall be deemed to have been drafted equally by the Parties and any ambiguities in this Agreement shall not be strictly construed against either of the Parties.

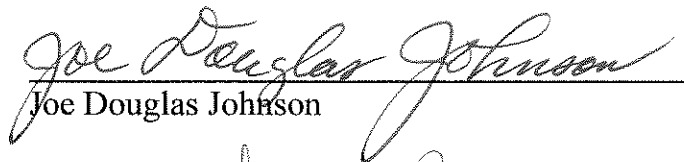
m. Captions. The captions of this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained in this Agreement.

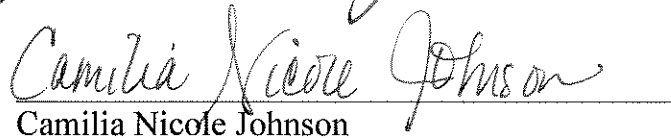
n. Modification/Amendment. This Agreement may not be amended or modified in any respect whatsoever except by a further agreement, in writing, fully executed by the parties, or their attorneys on their behalf.


16. EXECUTION OF CONTRACT. Purchaser acknowledges and agrees that this Contract shall not be binding upon Sellers unless and until this Contract has been fully executed by Sellers. Sellers acknowledge and agree that this Contract shall not be binding upon Purchaser unless and until this Contract has been executed by a duly authorized officer of Purchaser.

Executed by Sellers on March 25, 2019.

SELLERS:


Joe Douglas Johnson


Camilia Nicole Johnson


Corey Johnson, individually and as Independent
Executor of the Estate of Cora Ellen Johnson

Executed by Purchaser on _____, 2019.

PURCHASER:

CITY OF ROUND ROCK, TEXAS

BY: _____
Craig Morgan, Mayor



City of Round Rock

Agenda Item Summary

Agenda Number: H.3

Title: Consider a resolution authorizing the Mayor to execute an Agreement with Magic in the Sky, LLC for the purchase of fireworks display services.

Type: Resolution

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Rick Atkins, Parks and Recreation Director

Cost: \$250,000.00

Indexes: General Fund

Attachments: Resolution, Exhibit A, Form 1295

Department: Parks and Recreation Department

Text of Legislative File 2019-0147

This agreement is for firework display services for the annual July 4th Celebration at Old Settlers Park. The City issued a Request for Proposals in December and received four proposals with Magic in the Sky deemed to be the best value for the City. The agreement is a five (5) year agreement with a not-to-exceed amount of \$50,000 per year.

Magic in the Sky has 20+ years of experience displaying firework shows for numerous municipalities and theme parks across the United States.

Cost: \$250,000

Source of Funds: General Fund

RESOLUTION NO. R-2019-0147

WHEREAS, the City of Round Rock has duly sought proposals for certain services in the nature of fireworks display services; and

WHEREAS, Magic in the Sky, LLC has submitted the proposal determined to provide the best value to the City considering the price and other evaluation factors included in the request for proposals; and

WHEREAS, the City Council desires to enter into an agreement with Magic in the Sky, LLC,
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 Fireworks Display Services with Magic in the Sky, 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 11th day of April, 2019.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk

EXHIBIT
"A"

CITY OF ROUND ROCK
AGREEMENT FOR FIREWORKS DISPLAY SERVICES
WITH
MAGIC IN THE SKY, LLC

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

THAT THIS Agreement for purchase of fireworks display services for the City of Round Rock, Texas (referred to herein as the "Agreement"), is made and entered into on this the ____ day of the month of _____, 2019, by and between the CITY OF ROUND ROCK, TEXAS, a home-rule municipality whose offices are located at 221 East Main Street, Round Rock, Texas 78664 (referred to herein as the "City") and MAGIC IN THE SKY, LLC whose offices are located at 26926 Hardy Run, Boerne, Texas 78015 (referred to herein as the "Services Provider").

RECITALS:

WHEREAS, City desires to purchase fireworks display services, and City desires to procure same from Services Provider; and

WHEREAS, City has issued its "Request for Proposals" for the provision of said services, and City has selected the Proposal submitted by the Services Provider; 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, 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 Services Provider whereby City is obligated to purchase specified services and Services Provider is obligated to provide said services. The Agreement includes the following: (a) City's "Request for Proposals" ("RFP"), designated Solicitation Number 19-004; (b) Services Provider's Response to the RFP; (c) contract award; and (d) any exhibits, addenda, and/or amendments thereto. Any inconsistencies or conflicts in the contract documents shall be resolved by giving preference in the following order:

- (1) This Agreement;
- (2) Services Provider's Response to RFP;
- (3) City's RFP, exhibits, and attachments.

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 and services** mean the specified services, supplies, materials, commodities, or equipment.

2.01 EFFECTIVE DATE; TERM

A. This Agreement shall be effective on the date it has been signed by both parties hereto, and shall remain in full force and effect, unless and until it expires by operation of the term stated herein, or until terminated as provided herein.

B. The term of this Agreement is for sixty months (60) months from the effective date hereof. City reserves the right to review the relationship 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

A. City selected Services Provider to supply the services as outlined in the RFP and Proposal submitted by Services Provider, all as specified in Exhibit "A," attached hereto and incorporated herein by reference. The intent of these documents is to formulate an Agreement listing the responsibilities of both parties as outlined in the RFP and as offered by Services Provider in its Proposal in response to the RFP.

B. The services which are the subject of this Agreement are described in Exhibit "A" and, together with this Agreement, comprise the total Agreement and they are fully a part of this Agreement as if repeated herein in full.

4.01 ITEMS AWARDED; SCOPE OF WORK

A. The services set forth in the RFP and Response to the RFP, attached as Exhibit "A" and incorporated herein by reference for all purposes, are awarded to Services Provider.

B. For purposes of this Agreement, City has issued documents delineating the required services (specifically Solicitation Number 19-004. Services Provider has issued its response agreeing to provide all such required services in all specified particulars. All such referenced documents are included in Exhibit "A." When taken together with the appended exhibits, this Agreement shall evidence the entire understanding and agreement between the parties and shall supersede any prior proposals, correspondence or discussions.

C. Services Provider shall satisfactorily provide all services described under the attached exhibits within the contract term specified in Section 2.01. Services Provider's undertakings shall be limited to performing services for the City and/or advising City concerning those matters on which Services Provider has been specifically engaged. Services Provider shall perform its services in accordance with this Agreement, in accordance with the appended exhibits, in accordance with due care, and in accordance with prevailing industry standards for comparable services.

5.01 COSTS

A. The costs listed in the Service provider's "Best and Final Offer," on page forty-three (43) of the attached Exhibit "A," shall be the basis of any charges collected by Services Provider.

B. In consideration for the services set forth in Exhibit "A," the City shall be authorized to pay the Services Provider for an amount not-to-exceed **Fifty Thousand and No/100 Dollars (\$50,000.00) per year** for Services Provider's services for a total not to exceed amount of **Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00)** for the term of this Agreement.

6.01 INVOICES

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

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

7.01 INTERLOCAL COOPERATIVE CONTRACTING/PURCHASING

Authority for local governments to contract with one another to perform certain governmental functions and services, including but not limited to purchasing functions, is granted under Government Code, Title 7, Chapter 791, Interlocal Cooperation Contracts, Subchapter B and Subchapter C, and Local Government Code, Title 8, Chapter 271, Subchapter F, Section 271.101 and Section 271.102.

Other governmental entities within the State of Texas may be extended the opportunity to purchase off of the City's bid, with the consent and agreement of the successful Services Provider(s) and the City. Such agreement shall be conclusively inferred for the Services Provider from lack of exception to this clause in the Services Provider's response. However, all parties hereby expressly agree that the City is not an agent of, partner to, or representative of those outside agencies or entities and that the City is not obligated or liable for any action or debts that may arise out of such independently-negotiated "piggyback" procurements.

8.01 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 Services Provider a written notice of termination at the end of its then current fiscal year.

9.01 PROMPT PAYMENT POLICY

In accordance with Chapter 2251, V.T.C.A., Texas Government Code, payment to Services Provider 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. Services Provider 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 Services Provider, a contractor, a subcontractor or supplier about 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 Services Provider and a subcontractor or between a subcontractor and its supplier about 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.

10.01 GRATUITIES AND BRIBES

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

11.01 TAXES

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

12.01 ORDERS PLACED WITH ALTERNATE SERVICES PROVIDERS

If Services Provider cannot provide the services as specified, City reserves the right and option to obtain the services from another supplier or suppliers.

13.01 INSURANCE

Services Provider shall meet all requirements as stated in Part II, Section 2 of RFP Number 19-004, attached hereto as Exhibit "A."

14.01 CITY'S REPRESENTATIVE

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

Rick Atkins
Parks and Recreation Director
301 West Bagdad Avenue, Suite 250
Round Rock, Texas 78664
512-341-3344
ricka@roundrocktexas.gov

15.01 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.

16.01 DEFAULT

If Services Provider abandons or defaults under this Agreement and is a cause of City purchasing the specified services elsewhere, Services Provider 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 services and that it may not be considered in future bids for the same type of work unless the scope of work is significantly changed.

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

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

17.01 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 Services Provider.

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

C. Services Provider 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 Services Provider, Services Provider 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, Services Provider shall submit a statement showing in detail the services satisfactorily performed under this Agreement to the date of termination. City shall then pay Services Provider that portion of the charges, if undisputed. The parties agree that Services Provider is not entitled to compensation for services it would have performed under the remaining term of the Agreement except as provided herein.

18.01 INDEMNIFICATION

Services Provider 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 Services Provider, or Services Provider's agents, employees or subcontractors, in the performance of Services Provider'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 Services Provider (including, but not limited to the right to seek contribution) against any third party who may be liable for an indemnified claim.

19.01 COMPLIANCE WITH LAWS, CHARTER AND ORDINANCES

A. Services Provider, 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. Services Provider 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 Services Provider 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 Services Provider 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 Services Provider 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 services unless the contract contains written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of this contract. The signatory executing this Agreement on behalf of Services Provider verifies Services Provider does not boycott Israel and will not boycott Israel at any term of this Agreement.

20.01 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.

21.01 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 Services Provider:

Magic in the Sky, LLC
26926 Hardy Run
Boerne, Texas 78015

Notice to City:

City Manager
221 East Main Street
Round Rock, TX 78664

AND TO: Stephen 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 Services Provider.

22.01 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.

23.01 EXCLUSIVE AGREEMENT

This document, and all appended documents, constitutes the entire Agreement between Services Provider 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.

24.01 DISPUTE RESOLUTION

City and Services Provider 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.

25.01 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.

26.01 MISCELLANEOUS PROVISIONS

Standard of Care. Services Provider 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. Services Provider understands and agrees that time is of the essence and that any failure of Services Provider to fulfill obligations for each portion of this Agreement within the agreed timeframes will constitute a material breach of this Agreement. Services Provider 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 Services Provider'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 Services Provider 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.

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

City of Round Rock, Texas

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

Magic in the Sky, LLC

By:  _____
Printed Name: Jacob J Dell
Title: President
Date Signed: 2/25/2019

Attest:

By: _____
Sara White, City Clerk

For City, Approved as to Form:

By: _____
Stephan L. Sheets, City Attorney



City of Round Rock, Texas
Purchasing Division
221 East Main Street
Round Rock, Texas 78664-5299
www.roundrocktexas.gov

REQUEST FOR PROPOSAL (RFP)

FIREWORKS DISPLAY SERVICES

SOLICITATION NUMBER 19-004

NOVEMBER 2018

PART I
Exhibit "A"

**GENERAL REQUIREMENTS
FIREWORKS DISPLAY SERVICES**

1. **PURPOSE:** The City of Round Rock, herein after "the City" seeks proposals from firms experienced in providing aerial fireworks displays for City residents in celebration of the 4th of July and other special events. Fireworks displays shall be hereinafter referred to as "Fireworks."
2. **BACKGROUND:** In 2013 the City of Round Rock Parks and Recreation went out to bid for the services of providing the City of Round Rock Parks and Recreation Department with a July 4th Fireworks show. The 4th of July in Round Rock has long been an event that has brought thousands of people out to Old Settlers Park to enjoy a day of festivities in celebration of the 4th of July. This firework show has been staged on the North East side of the lake in Old Settlers Park. This has allowed us sufficient space to comply with the use of 6" shells for the show. The fireworks display shows in Round Rock have typically lasted from 18 to 20 minutes in length. The fireworks have started at dark and it has been timed to start with the playing of live music from the Round Rock / Austin area. A grand finale of the last 2 to 2.5 minutes has culminated the show. This past year we incorporated two satellite sites that added to the scope of the show which provided an additional 'wow' factor. Our vision to is bring a memorable show to the residents of Round Rock.

3. **SOLICITATION PACKET:** This solicitation packet is comprised of the following:

Description	Index
Part I – General Requirements	Page(s) 2-5
Part II – Definitions, Standard Terms and Conditions and Insurance Requirements	Page 6
Part III – Supplemental Terms and Conditions	Page(s) 7-8
Part IV – Scope of Work	Page(s) 9-11
Part V – Proposal Preparation Instructions and Evaluation Factors	Page(s) 12-14
Attachment A – Proposal Submittal Form and Execution	Page 15
Attachment B – Reference Sheet	Page 16

4. **AUTHORIZED PURCHASING CONTACT:** For questions or clarification of specifications, you may contact:

Michael Schurwon, CPPB, CTCD
Purchaser
Purchasing Division
City of Round Rock
Phone: 512-218-6682
E-mail: mschurwon@roundrocktexas.gov

Exhibit "A"

The individual listed above may be contacted by e-mail for clarification of the specifications only. No authority is intended or implied that specifications may be amended or alterations accepted prior to solicitation opening without written approval of the City of Round Rock through the Purchasing Department.

5. **SCHEDULE OF EVENTS:** It is the City's intention to follow the solicitation timeline below.

EVENT	DATE
Solicitation released	November 15, 2018
Deadline for submission of questions	November 21, 2018 @ 5:00 AM, CST
City responses to questions or addendums	November 29, 2018 @ 5:00 PM, CST
Deadline for submission of responses	December 6, 2018 @ 3:00 PM, CST

All questions regarding the solicitation shall be submitted in writing by 5:00 PM, CST on the due date noted above. A copy of all the questions submitted and the City's response to the questions shall be posted on the City's webpage in the form of an addendum at

Questions shall be submitted in writing to the "Authorized Purchasing Contact". The City reserves the right to modify these dates. Notice of date change will be posted to the City's website
<http://www.roundrocktexas.gov/bids>

6. **SOLICITATION UPDATES:** Respondents shall be responsible for monitoring the City's website at <http://www.roundrocktexas.gov/bids> for any updates pertaining to the solicitation described herein. Various updates may include addendums, cancellations, notifications, and any other pertinent information necessary for the submission of a correct and accurate response. The City will not be held responsible for any further communication beyond updating the website.
7. **SITE VISIT:** Respondents are encouraged to visit the launch locations for the Fireworks displays prior to submitting a response. Please refer to location map listed in Part IV- Scope of Work, Section 8. Format.
- 7.1. It is the responsibility of the Respondent to examine the sites to determine any difficulties or restrictions inherent in the sites.
- 7.2. Failure of Respondents to visit the fireworks display show sites will not permit adjustments to pricing at a later date.
8. **RESPONSE DUE DATE:** Signed and sealed responses are due at or before 3:00 PM, on the due date noted in PART I, Section 5 – Schedule of Events. Mail or hand deliver sealed responses to:

City of Round Rock
Attn: Michael Schurwon, CPPB, CTCD
Purchasing Department
221 E. Main Street, 1st Floor Reception Desk
Round Rock, Texas 78664-5299

- 8.1. Sealed responses shall be clearly marked on the outside of packaging with the RFP Solicitation title, number, due date and "DO NOT OPEN".
- 8.2. Facsimile or electronically transmitted responses are not acceptable.
- 8.3. Responses cannot be altered or amended after opening.
- 8.4. No response can be withdrawn after opening without written approval from the City for an acceptable reason.
- 8.5. The City will not be bound by any oral statement or offer made contrary to the written proposal.
- 8.6. Samples and/or copies shall be provided at the Respondent's expense, and shall become the property of the City.

Exhibit "A"

- 8.7. Receipt of all addenda to this RFP must be acknowledged, signed, and included with the proposal response.
- 8.8. Late Proposal(s) will not be considered under any circumstances and will be returned unopened, if a return address is provided.
9. **RESPONDENT REQUIREMENTS:** The City of Round Rock makes no warranty that this checklist is a full comprehensive listing of every requirement specified in the solicitation. This list is only a tool to assist participating Respondents in compiling their final responses. Respondents are encouraged to carefully read the entire solicitation.
- 9.1. Respondent shall submit one (1) evident signed "Original," one (1) identical electronic copy of the RFP response on a flash drive, and two (2) physical copies of the RFP response. The submittal is required to include all addendums and requested attachments. The RFP response along with samples and/or copies shall be provided at the Respondents expense, and shall become the property of the City.
- 9.2. This request for proposal (RFP) does not commit the City to contract for any supply or service. Respondents are advised that the City will not pay for any administrative costs incurred in response preparation to this RFP; all costs associated with responding to this RFP will be solely at the interested parties' expense. Not responding to this RFP does not preclude participation in any future RFP/RFPQ/IFB.
- 9.3. **For your RFP submittal to be considered responsive, the attachments identified below shall be submitted with your proposal.**
- Addendums:** Addendums may be posted to this solicitation. Respondents are required to submit signed addendums with their sealed response. The Respondent shall be responsible for monitoring the City's website at <http://www.roundrocktexas.gov/bids> for any updates pertaining to the solicitation.
- Attachment A: PROPOSAL SUBMITTAL FORM AND EXECUTION:** Failure to complete and sign the proposal submittal form and execution may result in the disqualification of your proposal.
- Attachment B: REFERENCE SHEET:** Provide the name, address, telephone number and **E-MAIL** of at least three (3) valid Municipal, Government agencies or firms of comparable size that have utilized services that are similar in type and capacity within the last two (2) years. City of Round Rock references are not applicable. References may be checked prior to award. If references cannot be confirmed or if any negative responses are received it may result in the disqualification of submittal.
- 9.4. Provide a DVD representing an example of the respondent's 20-minute fireworks show.
10. **CONFIDENTIALITY OF CONTENT:** As stated in Section 16 of City of Round Rock Purchasing Definitions, Standard Terms and Conditions, all documents submitted in response to a solicitation shall be subject to the Texas Public Information Act. Following an award, responses are subject to release as public information unless the response or specific parts of the response can be shown to be exempt from the Texas Public Information Act. Pricing is not considered to be confidential under any circumstances
- 10.1. Information in a submittal that is legally protected as a trade secret or otherwise confidential must be clearly indicated with stamped, bold red letters stating "CONFIDENTIAL" on that section of the document. The City will not be responsible for any public disclosure of confidential information if it is not clearly marked as such.
- 10.2. If a request is made under the Texas Public Information Act to inspect information designated as confidential, the Respondent shall, upon request from the City, furnish sufficient written reasons and information as to why the information should be protected from disclosure. The matter will then be presented to the Attorney General of Texas for final determination.
11. **SUSPENSION OR DEBARMENT CERTIFICATION:** The provisions of the Code of Federal Regulations 2 CFR part 180 suspension and debarment may apply to this agreement. The City of Round Rock is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from doing business with the Federal Government, State of Texas, or the City of Round Rock.

Exhibit "A"

City of Round Rock
Fireworks Display Services
IFB No. 19-004
Class/Item: 962-36
November 2018

12. **CERTIFICATE OF INTERESTED PARTIES:** Section 2252.908 of the Texas Government Code requires the successful offeror to complete a Form 1295 "Certificate of Interested Parties" that is signed for a contract award requiring council authorization. The "Certificate of Interested Parties" form must be completed on the Texas Ethics Commission website, printed, signed and submitted to the City by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury prior to final contract execution. Link to Texas Ethics Commission
Webpage: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

PART II
DEFINITIONS, STANDARD TERMS AND CONDITONS
AND INSURANCE REQUIREMENTS

1. **DEFINITIONS, STANDARD TERMS AND CONDITIONS:** By submitting a response to this solicitation, the Respondent agrees that the City's Definitions, Standard Terms and Conditions, in effect at the time of release of the solicitation, shall govern unless specifically provided otherwise in a separate agreement or on the face of a purchase order. Said Definitions, Terms and Conditions are subject to change without notice. It is the sole responsibility of Respondents to stay apprised of changes. The City's Definitions, Standard Terms and Conditions can be viewed and downloaded from the City's website at: <https://www.roundrocktexas.gov/departments/purchasing/>
2. **INSURANCE:** The Respondent shall meet or exceed all insurance requirements set forth in Standard Insurance Requirements. The City's Standard Insurance Requirements document can be viewed and downloaded from the City's website at: <https://www.roundrocktexas.gov/departments/purchasing/>

PART III
SUPPLEMENTAL TERMS AND CONDITIONS

1. **AGREEMENT TERM:** The terms of the awarded agreement shall include but not be limited to the following:
 - 1.1 The term of the Agreement shall begin from date of award and shall remain in full force for sixty (60) months.
 - 1.2 Upon expiration of the contract term, the Contractor agrees to hold over under the terms and conditions of this agreement for such a period as is reasonably necessary to re-solicit and/or complete the project up to 90 days.
2. **RESPONDENT QUALIFICATIONS:** The City has established the following minimum qualifications. Respondents who do not meet the minimum qualifications will not be considered for award. The Respondent shall:
 - 2.1. Be firms, corporations, individuals or partnerships normally engaged in providing aerial fireworks display services as specified herein and have adequate organization, facilities, equipment, financial capability, and personnel to ensure prompt and efficient service to the City;
 - 2.2. In order to confirm financial stability the City may choose to review audited financial statements at any time throughout the RFP evaluation process. The Respondent shall provide two years audited financial statements, including any notes or supplemental schedules within 2 business days upon request.
 - 2.3. The Respondent shall include in the proposal a list all litigation the company or its principals have been involved in within the last three (3) years.
 - 2.4. Be domiciled in or have a home office inside the United States. Respondents domiciled outside the United States, or not having a home office inside the United States will not be included for consideration in this RFP process.
3. **SUBCONTRACTORS:** Respondent shall not subcontract or otherwise engage subcontractors to perform required services. The City seeks to do business directly with a company experienced in providing aerial fireworks display services.
4. **SAFETY:** The City reserves the right to remove any employee from City property for violation of federal, state, and local health, safety and environmental laws, ordinances, rules and regulations. The Respondent shall:
 - 4.1. Ensure that all employees comply with all Occupational Safety and Health Administration (OSHA), State and City safety and occupational health standards and other applicable federal, state, and local health, safety, and environmental laws ordinances, rules and regulations in the performance of these services;
 - 4.2. Be held responsible for the safety of their employees and unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site. In case of conflict, the most stringent safety requirement shall govern;
 - 4.3. Indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines penalties and liability of every kind arising from the breach of the Successful Respondents' obligations under this paragraph.
5. **PRICING:** The Respondent shall determine and submit a fixed cost for the work and shall include all incidental costs, labor, overhead charges, travel, payroll expenses, freight, equipment acquisition and maintenance, demurrage, fuel surcharges, delivery charges, costs associated with obtaining permits, insurance, bonds and risk management. No separate line item charges shall be permitted for either response or invoice purposes.

Exhibit "A"

6. **PRICE INCREASE:** Contract prices for aerial fireworks display services shall remain firm throughout the initial twelve (12) month term of the contract. A price increase to the agreement may be considered on the anniversary date of the Contract each year and shall be equal to the consumer price index for that year, but at no time can the increase be greater than 15% for any single line item.

6.1. **Consumer Price Index (CPI):** Price adjustments will be made in accordance with the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U) for all Urban Consumers. The price adjustment rate will be determined by comparing the percentage difference between the CPI in effect for the base year six-month average (January through June OR July through December); and each (January through June OR July through December six month average) thereafter. The percentage difference between those two CPI issues will be the price adjustment rate. No retroactive contract price adjustments will be allowed. The Consumer Price Index (CPI) is found at the Bureau of Labor Statistics, Consumer Price Index website: <http://www.bls.gov/cpi/>.

6.2. **Procedure to Request Increase:**

- 6.2.1. Mail the written price increase request with the rate detail comparison and comprehensive calculation and any supporting documentation to the designated City Contract Specialist a minimum of 45 days prior to the annual Contract anniversary date. The detailed written calculation will be verified and confirmed. All written requests for increases must include the City of Round Rock contract number, solicitation reference information and contact information for the authorized representative requesting the increase. Price increase requests shall be sent by mail to:

**City of Round Rock
Purchasing Department
Attn: Contract Specialist
221 st Main Street
Round Rock, TX 79664-5299**

- 6.2.2. Upon receipt of the request, the City reserves the right to either, accept the escalation and make change to the purchase order within 30 days of the request, negotiate with the Vendor or cancel the agreement or purchase order if an agreement cannot be reached on the value of the increase.

7. **PERFORMANCE REVIEW:** The City reserves the right to review the awarded respondents' performance anytime during the contract term.

8. **POINT OF CONTACT / DESIGNATED REPRESENTATIVE:**

- 8.1. **Contractor's point of contact:** In order to maintain consistent standards of quality work performed across the City, the City shall be provided with a designated and identified point of contact upon award of the contract to include contact information. The City's designated representative shall be notified by the Respondent immediately should the point of contact change.

- 8.2. **The City's designated representative:** The City's designated representative shall be:

**Mr. Randy Gordon
Parks Manager
Parks and Recreation
Phone: (512) 341-3340
E-mail: rgordon@roundrocktexas.gov**

9. **INTERLOCAL PURCHASING AGREEMENTS**

- 9.1. The City has entered into Interlocal Agreements with other Governmental agencies pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The Contractor agrees to offer the same price and terms and conditions to other eligible agencies that have an interlocal agreement with the City.
- 9.2. The City does not accept any responsibility or liability for the purchases by other government agencies through an interlocal cooperative agreement.

Exhibit "A"

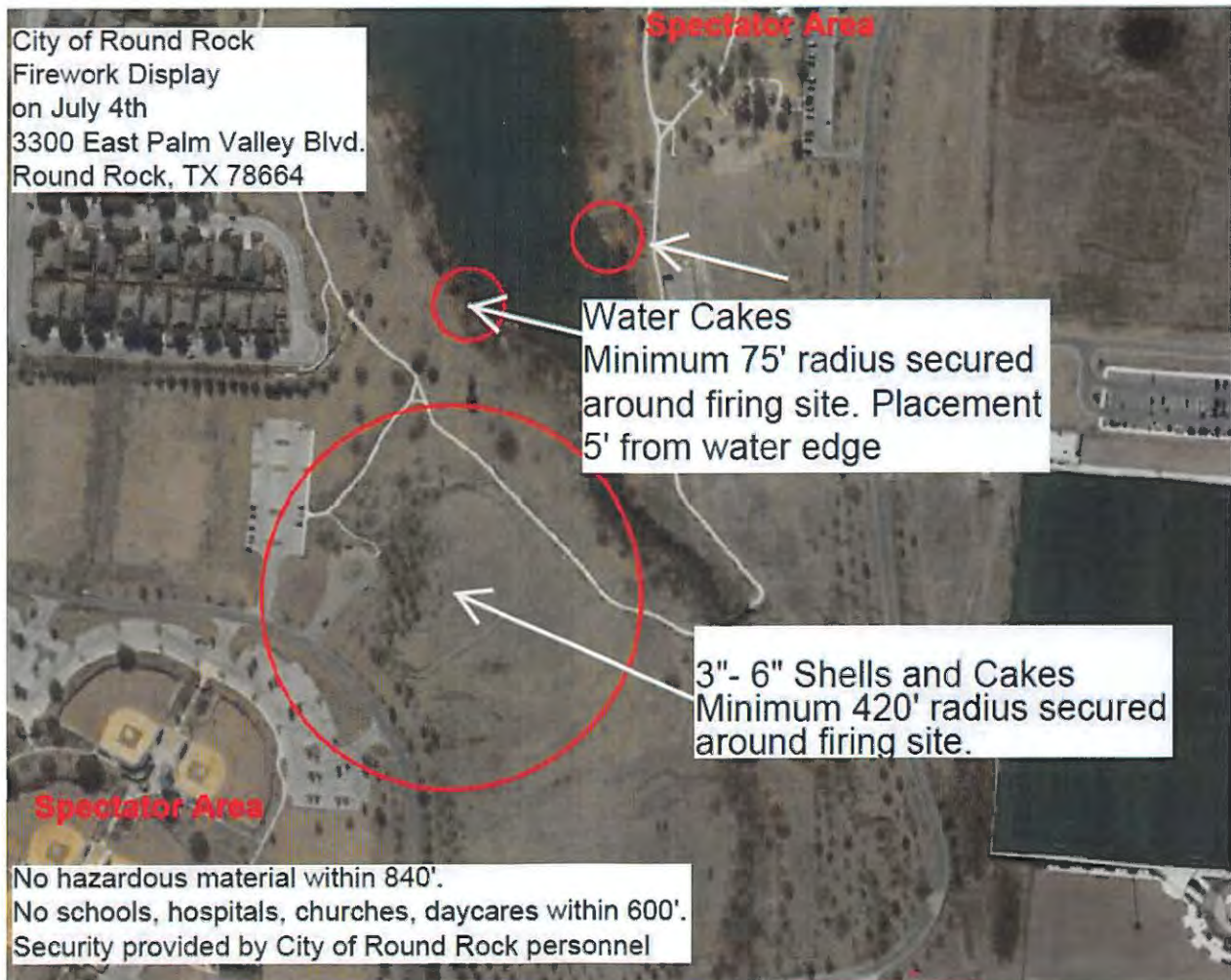
PART IV
SCOPE OF WORK

1. **Introduction:** Round Rock, Texas, with a population of around 113,000, is located 15 miles north of Austin in the Central Texas hill country. Round Rock is the 31st largest City in Texas, according to the 2010 U.S. Census Bureau data.
2. **Purpose:** The City seeks an agreement with a qualified Respondent to provide aerial fireworks display services for City residents in celebration of the 4th of July and other special events. Fireworks shall provide a high quality presentation with creativity and variety of display for maximum family enjoyment.
3. **SERVICE REQUIREMENTS:** Services shall be performed at:

 Primary Location
 City of Round Rock
 PARD Yard
 300 S. Burnett
 Round Rock, Texas 78664

 AND

 Secondary Location (Optional)
 City of Round Rock
 Old Settler Park
 3300 Palm Valley Blvd.
 Round Rock, Texas 78665
4. **CRITICAL REQUIREMENTS:** Safety is the City's highest priority in the execution of the Fireworks displays. Fireworks shall conform to the regulations set forth by the National Fire Protection Association (NFPA) Code 1123 for Fireworks Displays.
 - 4.1. Code can be located at the link below:
 <http://www.nfpa.org/aboutthecodes/aboutthecodes.asp?docnum=1123>
 - 4.2. Respondent shall maintain launch distances per national regulatory standards.
 - 4.3. Fireworks proposal shall meet with the approval of the City's Fire Department prior to acceptance and launch.
5. **TRANSPORATION:** Successful Respondent shall be responsible for transporting Fireworks and associated equipment in compliance with Federal, State and Local laws and regulations to include NFPA Code 1123.
6. **PERMITS:** Respondent shall possess applicable Federal, State and City permits and licenses required to execute Fireworks displays.
7. **SCHEDULE:** Fireworks display shall commence at a time specified by the City at time of scheduling.
8. **FORMAT:** The City of Round Rock – Parks and Recreation Department seeks a Fireworks display with an Opening Barrage, a Main Program and a Finale. Fireworks display to include two (2) separate water cake sites next to the water's edge (within 5') with a minimum of 75' radius secured zone and is to be synchronized with the main 3" – 6" main launch site.



- a. Respondent shall provide pricing on said format for the following show lengths/time slots:
 - i. 15 Minute
 - ii. 20 Minute
 - iii. 25 Minute
 - b. Shells shall range in size from, 3" – 6" in compliance with the regulations specified herein.
 - c. Proposal shall reflect number of shells and size of shells for each segment and each length of program.
 - d. Musical accompaniment is not required.
9. **FIREWORKS LAUNCH:** Successful Respondent shall manage and execute all aspects of Fireworks displays to include transport, set-up, launch and clean-up of fireworks and associated equipment. City staff shall not be made available to assist.
- a. Successful Respondent shall meet the City's Fire Department representatives at the launch site prior to launch for review of program.

Exhibit "A"

10. **RAIN DATE OR CONTINGENCY:** City requires a rain date to be identified at time of scheduling should the weather be inclement on event date. City shall make inclement weather determination.
 - a. City also requires Respondent to agree that in the event of a regional fireworks ban due to drought or other circumstance the City is not under any obligation to launch Fireworks displays or pay for said display that day.
11. **DAMAGE:** The successful Respondent shall be responsible for damage to the City's equipment and/or property through negligence in work, personnel and equipment.
12. **EMERGENCY:** City shall provide emergency fire and police personnel on site during the Fireworks displays in order to be close at hand in the event of an emergency.

PART V
PROPOSAL PREPERATION INSTRUCTIONS
AND EVALUATION FACTORS

1. **Proposal Acceptance Period:** All proposals are valid for a period of one hundred and twenty (120) calendar days subsequent to the RFP closing date unless a longer acceptance period is offered in the proposal.
2. **Proprietary Information:** All material submitted to the City becomes public property and is subject to the Texas Open Records Act upon receipt. If a Proposer does not desire proprietary information in the proposal to be disclosed, each page must be identified and marked proprietary at time of submittal. The City will, to the extent allowed by law, endeavor to protect such information from disclosure. The final decision as to what information must be disclosed, however, lies with the Texas Attorney General. Failure to identify proprietary information will result in all unmarked sections being deemed non-proprietary and available upon public request.
3. **Exceptions:** Be advised that exceptions to any portion of the Solicitation may jeopardize acceptance of the Proposal.
4. **Proposal Preparation Costs:** All costs directly or indirectly related to preparation of a response to the RFP or any oral presentation required to supplement and/or clarify a proposal which may be required by the City shall be the sole responsibility of the Proposer.
5. **Proposal Response:** Responses shall be clear and concise and shall include at a minimum: title page, transmittal letter, index or table of contents, dividers for each section and all required attachments. It is recommended that responses be submitted in ringed binders, metal spirals, or another bound format that best contains all required documentation for submission.
6. **Proposal Format:** Prefacing the proposal, the Proposer shall provide an Executive Summary of three (3) pages or less, which gives in brief, concise terms, a summation of the proposal. The proposal itself shall a title page, index or table of contents, dividers for each section and all required attachments and addendums to be organized in the following format by Tab and informational sequence:
 - A. **Tab 1- Business Organization:** State full name and address of your organization and identify parent company if you are a subsidiary. Specify the branch office or other subordinate element which will perform, or assist in performing, work herein. Indicate whether you operate as a partnership, corporation, or individual. Include the State in which incorporated or licensed to operate.
 - B. **Tab 2 - System Concept and Solution:** Define in detail your understanding of the requirement presented in the Scope of Work of this request for proposal and your system solution. Provide all details as required in the Scope of Work and any additional information you deem necessary to evaluate your proposal.
 - C. **Tab3 - Program:** Describe your technical plan for accomplishing required work. Include such time-related displays, graphs, and charts as necessary to show tasks, sub-tasks, milestones, and decision points related to the Scope of Work and your plan for accomplishment. Specifically indicate:
 - i. A description of your work program by tasks. Detail the steps you will take in proceeding from Task 1 to the final tasks.
 - ii. The technical factors that will be considered in section above, and the depth to which each will be treated.
 - iii. The degree of definition provided in each technical element of your plan.
 - iv. The points at which written, deliverable reports will be provided.
 - v. The amount of progress payments you are requesting upon successful completion of milestones or tasks, deducting ten percent (10%), which will be paid upon final acceptance by the City.
 - vi. A statement of your compliance with all applicable rules and regulations of Federal, State and Local governing entities. The Proposer must state his compliance with terms of this Request for Proposal (RFP).
 - vii. Provide a DVD program with your offer that best represents your 20 minute show.

Exhibit "A"

- D. **Tab 4 - Project Management Structure:** Provide a general explanation and chart which specifies project leadership and reporting responsibilities; and interface the team with City project management and team personnel. If use of subcontractors is proposed, identify their placement in the primary management structure, and provide internal management description for each subcontractor.
- E. **Tab 5 - Prior Experience:** Describe only relevant corporate experience and individual experience for personnel who will be actively engaged in the project. Do not include corporate experience unless personnel assigned to this project actively participated. Do not include experience prior to 2014. Supply the project title, year, and reference name, title, present address, and phone number of principal person for whom prior projects were accomplished.
- F. **Tab 6 - Personnel:** Include names and qualifications of all professional personnel who will be assigned to this project. State the primary work assigned to each person and the percentage of time each person will devote to this work. Identify key persons by name and title. Provide all resumes.
- G. **Tab 7- Authorized Negotiator:** Include name, address, and telephone number of person in your organization authorized to negotiate Contract terms and render binding decisions on Contract matters.
- H. **Tab 8 – Attachments and Addendum** including Attachment A – Proposal Submittal Form, Execution, Attachment B – Reference Sheet and signed addendums (if applicable), provide a DVD program with your offer that best represents your 20 minute show.
- I. **Tab 9 – Cost Proposal:** Information described in the following subsections is required from each Proposer. Your method of costing may or may not be used but should be described. A firm fixed price or not-to-exceed Contract is contemplated, with progress payments as mutually determined to be appropriate. Ten percent (10%) of the total contractual price will be retained until submission and acceptance of all work products. For the purposes of cost evaluation assume a program length of 20 minutes but provide costs for 15 and 25 minute shows as well.
- i. Manpower. Itemize to show the following for each category of personnel with separate hourly rate.
 - a. Manager, senior consultant, analyst, subcontractor etc.
 - b. Estimated hours for each category of personnel.
 - c. Rate applied for each category of personnel
 - ii. Itemized Cost of Supplies and Materials
 - iii. Other itemized costs
 - iv. Travel Expenses- Travel expenses shall be in compliance with City travel policy.
 - v. Total (not to exceed) Cost
7. **EVALUATION CRITERIA:** The intent of the City is to award to one Respondent in accordance with the evaluation criteria below. The purpose of this evaluation criteria is to determine which proposal best meets the requirements and provides the best overall value to the City. **The evaluation criteria will be determined based off of a 20 minute fireworks program.**

a. Evaluation Criteria:		Weights:
• Respondent's Solution, Approach and Timeline		40 points
• Individual Qualifications		20 points
• Work Experience		20 points
• Price		20 points
Maximum Weight:		100 points

Exhibit "A"

- b. An evaluation committee will be established to evaluate the proposal. The committee will include employees of the City and may include other impartial individuals who are not City employees. The evaluation committee will determine if discussions and/or Best and Final Offers are necessary. Award of a contract may be made without discussions or Best and Final Offers, if in the best interest of the City. The evaluation committee may determine that discussions are necessary to clarify or verify a written proposal response. The City may, at its discretion, elect to have respondents provide oral presentations of their proposal. A request for a Best and Final Offer is at the sole discretion of the City and will be requested in writing. The evaluation committee will evaluate the finalists and make a recommendation for award.
- c. The City reserves the right to reject any or all proposals submitted, or to award to the respondent who in the City's opinion, offers the best value to the City. The City also reserves the right to cancel the RFP process and pursue alternate methods for providing the requirements.
- d. The City reserves the right to conduct studies and other investigations as necessary to evaluate any proposal.
- e. The City reserves the right to waive any minor technicality, irregularities or informalities noted in the submission process. Submission of proposal confers no legal rights upon any Respondent.
- f. The City reserves the right to request further documentation or information and to discuss proposal response with any Respondent in order to answer questions or to clarify any aspects of the proposal.
- g. The City may develop a "short list" of qualified proposal, and may determine that the Respondent(s) should submit a Best and Final Offer (BAFO). Each "short listed" Respondent will be given a reasonable opportunity for discussion and revision of their proposal.

8. AGREEMENT NEGOTIATIONS AND AWARD PROCESS:

- 8.1. A proposal presented in response to this RFP is subject to negotiation concerning any issues deemed relevant by the City. The City reserves the right to negotiate any issue with any party. Any contact by the Respondent with the City regarding this RFP, other than those submitted in writing will result in disqualification of the Respondent's proposal.
- 8.2. Submission of proposal indicates the Respondent's acceptance of the evaluation process and recognition that the City may make subjective judgments in evaluating the proposal to determine the best value for the City.
- 8.3. If negotiations are successful, enter into an agreement.
- 8.4. If not successful, formally end negotiations with that Respondent. The City may then:
 - 8.4.1 Select the next most highly qualified Respondent and attempt to negotiate an agreement at fair and reasonable terms, conditions and cost with that Respondent.
 - 8.4.2 The City shall continue this process until an agreement is entered into or all negotiations are terminated.
- 8.5. The City also reserves the right to reject any or all submittals, or to accept any submittal deemed most advantageous, or to waive any irregularities or informalities in the submittal received.
- 8.6. An independent signed authorized contract will be sent to the successful Respondent. Execution of a City of Round Rock contract is required prior to starting work and processing any payments to the awarded Respondent.

9. POST AWARD MEETING: The City and the Respondent may schedule a post award meeting to discuss, but not be limited to the following:

- 9.1 Provide City contact(s) information for implementation of the Agreement.
- 9.2 Identify specific milestones, goals and strategies to meet objectives.

Exhibit "A"



Magic in the Sky, LLC
26926 Hardy Run
Boerne, TX 78015
Phone: 210-267-5371
Fax: 210-247-6182
Jacob J Dell, Director of Operations
Jacob@MagicInTheSky.com

Proudly Presents its Fireworks Proposal for:

Solicitation #19-004
REQUEST FOR PROPOSAL
FIREWORKS DISPLAYS

To:



January 9, 2019

Exhibit "A"



www.MagicInTheSky.com

Cheryl Kaufman
Purchasing Department
City of Round Rock
221 East Main Street
Round Rock, TX 78664-5299

Ms. Kaufman,

Magic in the Sky is a Texas firm that directly imports product from China allowing us the maximum in design control and value. We utilize ShowSim computer choreography to precisely sync each effect to your soundtrack for electronic firing using our FireOne system. We use this detailed approach to conduct displays from Florida to Texas including San Antonio's two major theme parks.

Our relationship with shell builder Dwayne Lloyd allows us to offer exclusively manufactured materials for Magic in the Sky right here in San Antonio. These shells are hand loaded with special effects, long duration stars, and colors more brilliant than offered in the finest imported material.

Because there are many possibilities for producing a show at your location we have included four configurations. In addition to the included quotes we are happy to offer a la carte for each event to give your team a broader selection to best exceed your requirements.

Magic in the Sky would be delighted to add Round Rock to our list of satisfied customers by producing your July 4th and other Celebrations. Please contact me directly on my cell phone 210-831-4752 to let us know how we can better serve your needs.

Sincerely,

Jacob J. Dell
President

Exhibit "A"



BID SUMMARY

Because there is a wide range of possibilities when combining 1.3g/1.4g, Magic in the Sky would work closely with Round Rock to determine the maximum impact for the budget dollar possible. While the RFP indicates time frames, we would like to offer four show levels to best present the program to the public.

	Show Level I	Show Level II	Show Level III	Show Level IV
Time	15 minutes	20 minutes	20 minutes	20 minutes
Total Bid	\$ 15,000.00	\$ 20,000.00	\$ 25,000.00	\$ 30,000.00

PRODUCT PROPOSAL

Product	Category	Country of Manufacture	Item	Shots	Quantity	Quantity	Quantity	Quantity
Cakes	1.3g	USA/China	45mm Finale Cake	49	2	4	6	8
		China/Japan	Various (average shot count 150)	150	3	5	7	9
3" Shells	1.3g	USA/China	3" Assortment Shells	1	216	288	360	432
4" Shells	1.3g	USA/China/Spain/France/Australia/Japan	4" Assortment Shells	1	108	144	180	216
5" Shells	1.3g	USA/China/Spain/France/Australia/Japan	5" Assortment Shells	1	120	144	168	192
6" Shells	1.3g	USA/China/Spain/France/Australia/Japan	6" Assortment Shells	1	81	99	117	135
Total Shots					1,009	1,621	2,169	2,717
Average Shot per second					1.1	1.4	1.8	2.3

The score of a pyromusical best indicates the appropriate effects mix to be used. We will create a package of equal or greater value, in conjunction with the Round Rock team based on the final music selections and effects desired.

Lost Proposal



SEVERE WEATHER OPERATIONAL PROCEDURES

WARNING: This document contains Sensitive Security Information this is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know", as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration of the Secretary of Transportation. Unauthorized release may result in civil penalty or other actions. Contact MITS Director of Operations at 210-831-4752 for more information.

Magic in the Sky will maintain operational control of all display sites during severe weather through the following procedures. These procedures are compatible with MITS Department of Homeland Security Hazardous Materials Security Plan and are designed to prevent unauthorized access to 1.3G and 1.4G explosives materials.

Severe Wind Conditions (Tornado Category F1+; Hurricane C1+) Reference NFPA 2010 8.1.4.2; 8.1.7

- When there is emanate threat of severe wind conditions, operator will as practical, secure all firing equipment and remove all explosive material from the site for storage in an approved Type IV magazine
- If energetic material has been loaded for firing, operator will:
 - If safely possible, remove all explosive material from the site for storage in an approved Type IV magazine
 - If time does not allow for safe removal operator will coordinate with the AHJ to fire all product before the onset of severe winds to prevent explosive materials from being uncontrollable blown from the display site.

Rain Conditions

- Operator will ensure that loading continues in a safe manner Reference NFPA 2010 8.1.7
 - Product shall not be loaded into wet mortars
 - All product shall be weather wrapped as loaded
 - Proximate devices including one shot comets, gerbs, fountains, SPD's and other effects that by their designed, are not able to be wrapped shall not be loaded.
 - Crew shall work in teams with one-member loading devices while the other member covers and protects from rain.

Electrical Events

- When lightning is detected within 7 miles of the display site all loading shall halt until conditions improve
 - Operator shall disconnect the firing system from all electrical connections
 - All Modules shall be disconnected from two-wire
 - All electrical matches shall be stored in wooden case/ready box at least 50 feet from all explosive materials
 - Operator shall keep crew at least 50 feet from all loaded explosives and maintain NFPA spectator distances of at least 70 feet per inch until the material is:
 - Safely removed from the site for storage in an approved Type IV magazine
 - Fired in coordination with the AHJ



Electrical Events (continued)

- In the event of uncontrolled electrical ignition
 - Operator will maintain operational control of site
 - Increase the safety distances as warranted
 - Immediately notify MITS Director of Operations for implementation of Occurrence Mitigation Plan

Extreme Temperature

- When temperatures exceed 110° F or are below 28° F loading of the show will be discontinued until conditions return to safe loading temperature range.

High Wind Speeds During Show (15+ MPH Sustained) Reference NFPA 2010 A.8.1.4.2

- In considering when wind speed is excessive for the reasonably safe performance of a fireworks display, operator will judge:
 - The potential for an increased risk of hazardous debris from the display falling into the spectator areas
 - The potential for an increased probability of fire that is made excessively difficult to control
- An increased fallout hazard occurs when the wind is traveling in a direction toward one or more spectator areas. Under these circumstances mitigation strategies that should be considered are as follows:
 - To move the spectators out of the path of the fallout
 - To redirect the fallout by moving the fireworks or re-angling the mortars
 - To increase the separation distance between the fireworks and the spectators
 - To modify the content of the display to eliminate the fireworks of greatest concern
 - To delay the display until the weather conditions have improved
 - To implement a combination of these strategies
- Some possible mitigation strategies to be considered regarding fire risks are as follows:
 - To water down the areas and items of concern immediately before the display
 - To redirect the fallout by moving the fireworks or re-angling the mortars
 - To increase the separation distance between the fireworks and the areas containing the fire hazards
 - To modify the content of the display to eliminate the fireworks of greatest concern
 - To increase the amount of suppression equipment and personnel in the immediate area
 - To delay the display until weather conditions have improved
- Show will be cancelled or discontinued if winds exceed 20 MPH sustained or during gusts above 25 MPH
 - NFPA safety distance will assume to be double at 20 MPH causing the operator to cut the permissible shell diameter in half until winds stabilize below 20 MPH

Magic in the Sky Licensing and Safety

Safety is Magic in the Sky's top priority. We are constantly updating our product design, shoot site layout, firing protocols, and show scripting to ensure every display is safe for both our team members and the viewing public. We partner with the following agencies to help us remain vigilant to prevent accidents from occurring:



Magic in the Sky Video Montage

Since 1999 Magic in the Sky has been pleased to produce amazing fireworks displays and pyromusicals for Municipalities and Theme Parks throughout the United States including:

Austin, TX	Laporte, TX	Savannah, TX	Bloomington, IN	Cincinnati, OH	Mendon, OH
Bay City, TX	Laredo, TX	Schertz, TX	Churubusco, IN	College Corner, OH	Middletown, OH
Baytown, TX	Leon Valley, TX	South Austin, TX	Covington, IN	Commercial Point, OH	Mt. Vernon , OH
		South Houston, TX			
Beaumont, TX	Medina, TX	TX	Danville, IN	Delta, OH	Ohio City, OH
Comfort, TX	Missouri City, TX	Temple, TX	Elkhart, IN	East Liberty, OH	Osgood, OH
Corpus Christi, TX	New Braunfels, TX	Tomball, TX	Indianapolis, IN	Eaton, OH	Rio Grande, OH
Devers, TX	Orange, TX	Utopia, TX	Liberty, IN	Findlay, OH	Rockford, OH
Edna, TX	Port Aransas, TX	Uvalde, TX	Richmond, IN	Ft. Recovery, OH	Trenton, OH
Floresville, TX	Poteet, TX	Victoria, TX	South Bend, IN	Knoxville, OH	Village of Wren, OH
Giddings, TX	Providence Village, TX	Webster, TX	Jackson, NJ	Lewisburg, OH	Wauseon, OH
Groesbeck, TX	Rio Grande, TX	Williamsburg, VA	Archbold, OH	Mansfield, OH	West Portsmouth, OH
Helotes, TX	Rosenberg, TX	Dade City, FL	Baltimore, OH	Maria Stein, OH	West Union, OH
Houston, TX	San Antonio, TX	Orlando, FL	Cambridge, OH	Marion, OH	Xenia, OH
Kerrville, TX	San Benito, TX	Plant City, FL	Cardington, OH	McArthur, OH	Sarver, PA
		Tampa, FL	Celina, OH		

Magic in the Sky Video Montage

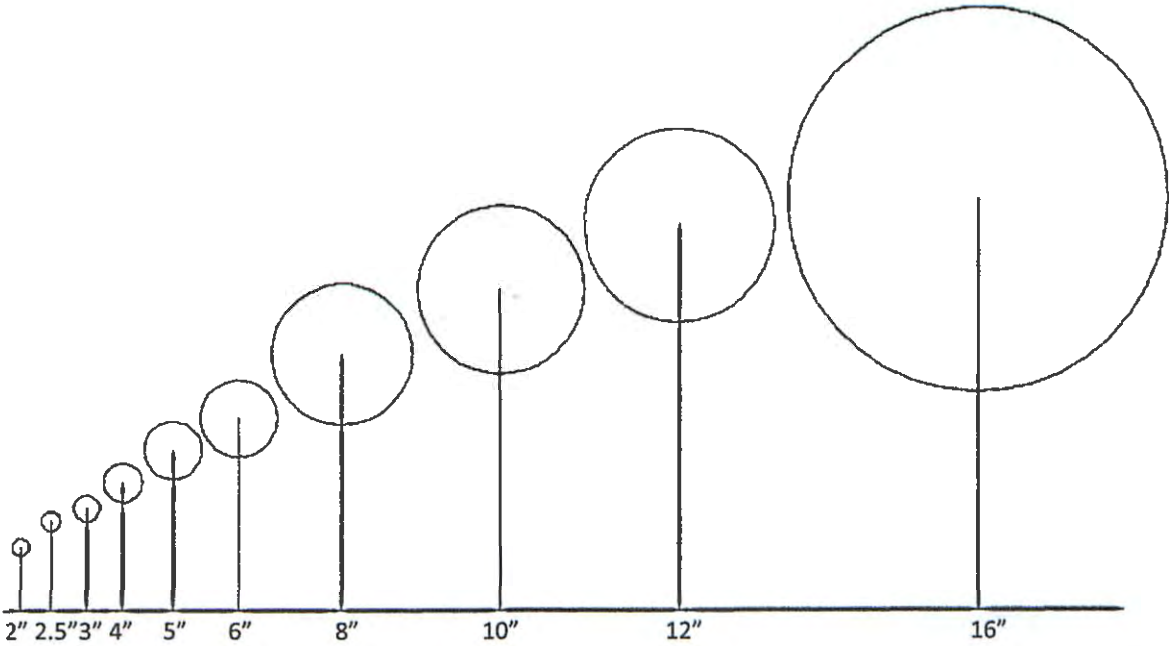
Since 1999 Magic in the Sky has been pleased to produce amazing fireworks displays and pyromusicals for Municipalities and Theme Parks throughout the United States including:





TYPICAL AERIAL SHELL PERFORMANCE

BURST DIAMETER	43' 49' 66' 98' 148' 197'	361'	426'	492'	984'
RISING HEIGHT	164' 230' 263' 328' 410' 492'	656'	820'	984'	1,050'





www.MagicInTheSky.com

Shell Assortments

Magic in the Sky has carefully selected these shell assortments to deliver consistent performance for theme park shows while providing a variety of effects and vibrant colors.

4"-6" Assortment with or without tail

<i>Shell Color and Effect</i>	<i>Quantity</i>
Blue & White Peony	2
Blue Chrysanthemum	2
Blue Diadem	2
Blue Peony	4
Blue To Crackling	2
Color Chrysanthemum	2
Color Peony	6
Crackling Diadem	2
Dahlia Golden	2
Golden Chrysanthemum	2
Golden Diadem	2
Golden Peony	2
Green & White Peony	4
Green Chrysanthemum	4
Green Peony	6
Green To Crackling	2
Purple Chrysanthemum	4
Purple Peony	2
Red & Blue Peony	4
Red & Silver Peony	4
Red Chrysanthemum	4
Red Diadem	2
Red Peony	6
Red To Crackling	2
Sea Blue Peony	2
White Chrysanthemum	4
White Diadem	2
White Peony	6
Yellow Chrysanthemum	2
Yellow Diadem	2
Yellow Peony	2
Yellow To Crackling	2

Exhibit "A"



www.MagicInTheSky.com

3" Assortment A with rising colored tail

<i>Shell Color and Effect</i>	<i>Quantity</i>	<i>Color Palette</i>	
Red Chrysanthemum	2	Blue	12
Red Diadem	2	Gold	22
Red Wave	2	Purple	8
Red & Silver Glittering	2	Red	18
Red & Blue Chrysanthemum	2	Silver	8
White Chrysanthemum	2	White	4
White Diadem	2		
Blue Chrysanthemum	2		
Blue Diadem	2		
Blue Wave	2		
Blue & Silver Glittering	2		
Golden Wave	2		
Golden Wave To Purple	2		
Purple Wave	2		
Glittering Purple	2		
Silver Wave	2		
Silver Wave To Purple	2		
Silver Wave To Green Flashing Flower	2		
Brocade Red	2		
Red Coconut Tree	2		
Red Crackling Coconut Tree	2		
Red Willow	2		
Brocade Crown To White Flashing	2		
Brocade Blue	2		
Blue Coconut Tree	2		
Brocade Golden	2		
Diadem Chrysanthemum W/Reports	2		
Golden Coconut Tree	2		
Golden Kamuro	2		
Willow To Strobe	2		
Golden Spider	2		
Golden Crackling Coconut Tree	2		
Brocade Coconut Tree	2		
Brocade Purple	2		
Purple Coconut Tree	2		
Brocade Silver	2		

Exhibit "A"



www.MagicInTheSky.com

3" Assortment B

<i>Shell Color and Effect</i>	<i>Quantity</i>	<i>Color Palette</i>	
Blue & Crackling Star	2	Blue	14
Blue Crackling Ring	2	Color	2
Blue Ring	2	Crackling	12
Blue To Crackling	2	Purple	8
Blue To Golden Crackling Chrysanthemum Flower	2	Red	18
Blue To Red Peony	2	RWB	10
Blue To White Peony	2	Silver	8
Color Changing Kamuro	2		
Crack. Willow & Crackling Tail	2		
Crackling Spider	2		
Dahlia Red	2		
Dahlia Silver	2		
Dragon Eggs W/Coconut Tree Pistil	2		
Golden Flashing To Red	2		
Half Purple & Crackling	2		
Half Red & Blue Peony	2		
Purple To Golden Crackling Chrysanthemum Flower	2		
Purple To Golden Peony	2		
Purple To Silver Peony	2		
Red & Blue Peony	2		
Red & Crackling Star	2		
Red And Blue (Alternating) Ring	2		
Red Circles W/Wave	2		
Red Crackling Ring	2		
Red Ring	2		
Red To Blue Peony	2		
Red To Blue Ring	2		
Red To Crackling	2		
Red To Golden Crackling Chrysanthemum Flower	2		
Red To White Peony	2		
Silver Coconut Tree	2		
Silver Spider	2		
Silver Time Rain Coconut Tree	2		
White Crackling Ring	2		
White To Crackling	2		
Willow To Crackling	2		

Exhibit "A"



www.MagicInTheSky.com

3" Assortment C with rising silver tail

<i>Shell Color and Effect</i>	<i>Quantity</i>	<i>Color Palette</i>	
Blue Chrysanthemum	2	Blue	8
Blue Coconut Tree	2	Gold	14
Blue Peony	2	Color	6
Blue Peony W/ Strobe Pistil	2	Green	6
Brocade Crown	2	Purple	8
Brocade Crown To Purple	2	Red	20
Charcoal Chrysanthemum	2	Silver	8
Colorful Chrysanthemum	2	White	2
Colorful Peony	2		
Diadem Chrysanthemum To Crackling Flowers	2		
Diadem Chrysanthemum To Variegated Strobe	2		
Golden Kamuro To Purple	2		
Golden Peony	2		
Golden Strobe	2		
Green Chrysanthemum	2		
Green Peony W/Strobe Pistil	2		
Green To Silver Strobe	2		
Purple Chrysanthemum	2		
Purple Chrysanthemum W/ Strobe Pistil	2		
Purple Coconut Tree	2		
Purple Peony	2		
Red Chrysanthemum	2		
Red Chrysanthemum W/ Strobe Pistil	2		
Red Fish	2		
Red Gamboge Crown To Variegated Strobe	2		
Red Peony	2		
Red Peony W/ Blue Pistil	2		
Red Peony W/ Strobe Pistil	2		
Red Peony W/Brocade Pistil	2		
Red To Brocade Crown	2		
Red To Silver Strobe	2		
Silver Chrysanthemum	2		
Silver Chrysanthemum W/ Strobe Pistil	2		
Silver Coconut Tree	2		
Silver Peony W/ Red Pistil	2		
White Peony	2		

Exhibit "A"



www.MagicInTheSky.com

3" Assortment D

<i>Shell Color and Effect</i>	<i>Quantity</i>	<i>Color Palette</i>
Red & Blue & White Peony	2	Blue 10
Blue Chrysanthemum W/ Red Pistil	2	Color 14
Blue Peony To Brocade Ring	2	Green 10
Blue Peony W/ Glitter Coconut Core	2	Purple 6
Blue Peony W/Golden Pistil	2	Red 14
Color Changing Peony To Brocade Ring	2	RWB 4
Color Changing Peony W/ Glitter Coconut Core	2	Silver 6
Dahlia Green W/ Whistling	2	Yellow 8
Glittering Silver Wave To Blue	2	
Glittering Silver Wave To Color W/ Palm Core	2	
Glittering Silver Wave To Green	2	
Glittering Silver Wave To Purple	2	
Glittering Silver Wave To Red	2	
Green Chrysanthemum W/ Purple Pistil	2	
Green To Red Wave	2	
Half Green & Purple Peony	2	
Half Red & Blue Peony	2	
Half Silver & White Peony	2	
Purple Peony W/ Green Pistil	2	
Purple To Silver Wave	2	
Red Gamboge To Blue To White	2	
Red Gamboge To Color W/ Variegated Double Pistil	2	
Red Gamboge To Strobe	2	
Red Peony W/ Glitter Coconut Core	2	
Red Peony W/Brocade Pistil	2	
Red To Blue Wave	2	
Red To Golden Wave	2	
Silver Peony W/ Glitter Coconut Core	2	
Silver Spider	2	
Variegated Bees	2	
Variegated Chrysanthemum W/ Variegated Strobe Pistil	2	
Variegated Peony W/ Variegated Pistil	2	
Yellow Chrysanthemum W/ Crackling Pistil	2	
Yellow Peony To Brocade Ring	2	
Yellow Peony W/ Glitter Coconut Core	2	
Yellow To Purple Wave	2	

Exhibit "A"



www.MagicInTheSky.com

3" Assortment F

<i>Shell Color and Effect</i>	<i>Quantity</i>
Variegated Chrysanthemum W/ Crackling Pistil	6
White Strobe	6
Half Golden Glittering & Silver Glittering Peony	6
Variegated Peony W/ Variegated Pistil	6
Green Chrysanthemum W/ Strobe Pistil	6
Blue Peony W/Golden Pistil	6
Red Peony W/Brocade Pistil	6
Blue Chrysanthemum W/ Crackling Pistil	6
Lemon Peony	6
Brocade To Strobe	6
White Strobe Waterfall W/Red Strobe Pistil	12

Exhibit "A"



www.MagicInTheSky.com

1.4S Proximate Items

1.4S Lightning Mines

Red Mag
Green Mag
Lemon Mag
Purple Mag
Orange Mag
Blue
Aqua Mag
Magenta Mag
Gold Flitter
White Flitter
Brocade

1.4S Comet and Mine Combo Shot

Red Mag Gold Flitter Mine
Green Mag Gold Flitter Mine
Purple Mag Gold Flitter Mine
Lemon Mag White Flitter Mine
Aqua Mag Gold Flitter Mine
Orange Mag White Flitter Mine
Magenta Mag Gold Flitter Mine
Blue Gold Flitter Mine
Gold Flitter White Flitter Mine
White Flitter Gold Flitter Mine

1.4S Matrix comets

Gold or White Flitter Tail Red Mag
Gold or White Flitter Tail Green Mag
Gold or White Flitter Tail Blue
Gold or White Flitter Tail Aqua Mag
Gold or White Flitter Tail Magenta Mag
Gold or White Flitter Tail Lemon Mag
Gold or White Flitter Tail Purple Mag
Gold or White Flitter Orange Mag

1.4S Tracer Lightning Flash Mines

Red
Green
Blue
Orange
Lemon
Magenta
Aqua
Gold Flitter
White Flitter



www.MagicInTheSky.com

Multi Shot Cakes

49 2" Shell Cake 2" 49'S Mix Shells W/Tail
81 W Shape Red Peony & White Peony & Blue Peony
90 W Shape Red/ White/ Blue Peony To Salute
96 V Shape Gold & Silver Crossette
100 Multi Shot Assorted Color Crossette With Comet Tail
100 Multi Shot Assorted Colored Dahlias W/Assorted Colored Tails
100 Multi Shot Strobe Willow W/ Golden Tail
100 Z Shape Colorful Crossette
100 Z Shape Colorful Glittering Stars
100 Z Shape Crackling Flowers Bouquet To Red, White & Blue Tail Titanium Salute
100 Z Shape Green Strobe W/Purple Tail
100 Z Shape Red Mine W/ Blue Tails To Horse Tail Shape Brocade Crown
114 V Shape Blue Dahlia W/ Silver Glittering
114 V Shape Red Coconut Trees
140 Fan Shape 140 S Fan 3 Base Thunder Storm Sound Mine Red, Blue To Sound Pearl
150 Multi Shot Red & Blue Chrysanthemum With Silver Tail
150 Z Shape Brocade Crown
156 V Shape Color Magic Balls (Red, Lime Green, Blue, Yellow, Purple, Orange, Violet)
165 8 Shaped Red & Blue Comet To Chrysanthemum
180 W Shape 180 Shot Blue Coconut Outside Red Strobe Middle
600 Multi Shot Colorful Bees

Comet/Mine Slices

10 Point Fan Shape Blue Palm & Red Palm W/ Silver Tail
10 Point Fan Shape Silver Whirling Flower
10 Point Fan Shape Blue Tail To Blue and Silver Fish
10 Point Zipper Golden Kamuro W/Blue Tail
10 Point Zipper Shape Red, White & Blue Crossette
10 Point Zipper Silver Tail Candle
12 Point Fan Strobe Crown Mine
20 Point Z Shape Red/White/Blue/Salute

Single Shot Mines

3" Red Crossette Mine
3" Blue Crossette Mine
3" Blue Mine
3" Colors W/Tessellate Mine
3" Crackling Chrysanthemum Mine
3" Glittering Crossette Mine
3" Glittering Silver Willow Mine
3" Red Mine
3" Silver Crossette Mine
3" Variegated Mine
3" Whistling Mine
3" White Strobe Mine

Exhibit "A"

2019 July 4th Fireworks Crew Schedule

July 4th Daily Fireworks Crew Schedule

Crew	Date	Time	Activity
Equipment	3-Jul	15:00	Arrive at site
		16:00	Complete site walk through
Equipment	4-Jul	7:00	Arrive at Site
		11:00	Mortar Set-up Complete
		22:30	Breakdown Equipment
		23:30	Site Clean-up Complete
Pyrotechic	4-Jul	10:00	Arrive at Site
		10:30	Initial Product Sort
		11:00	Begin Loading
		15:00	Mid-day electronic Check
		19:00	Final electronic Check
		19:30	Final prep for show launch
		21:15	Show
		22:00	Post Show Check

Exhibit "A"



www.MagicInTheSky.com

Cheryl Kaufman
Purchasing Supervisor
City of Round Rock

Ms. Kaufman,

Magic in the Sky is pleased to offer the following best and final offer to the City of Round Rock for the 2019 fireworks season.

		<u>Show</u> <u>Level III</u>	<u>Two</u> <u>Level III</u>
Time		20 minutes	20 minutes each
Total Bid		\$ 25,000.00	\$ 22,250.00 each
		<u>Quantity</u>	<u>Quantity</u>
Product	Shots		
Finale Cakes	49	7	7
150 Shot Cakes	150	8	8
3" Shells	1	420	420
4" Shells	1	180	180
5" Shells	1	168	168
6" Shells	1	117	117
Total Shots		2,428	2,428
Average Shot per second		2.0	2.0

If you have questions, please contact me directly on my cell phone 210-831-4752.

Sincerely,

Jacob J. Dell
President

San Antonio (Home) Office:
26926 Hardy Run
Boerne, TX 78015
Office: 210-267-5371
Fax: 210-247-6182

Exhibit "A"

City of Round Rock
Fireworks Display Services
IFB No. 19-004
Class/Item: 962-36
November 2018

ATTACHMENT A
PROPOSAL SUBMITTAL FORM AND EXECUTION

NOTE: RESPONDENTS SHALL COMPLETE AND RETURN THIS ATTACHMENT WITH THEIR PROPOSAL. FAILURE TO DO SO MAY RESULT IN DISQUALIFICATION OF THE PROPOSAL.

By signature hereon, the Respondent certifies that:

All statements and information prepared and submitted in the response to this RFP are current, complete and accurate.

He/she has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan gratuity, special discount, trip, favor, or service to a City employee in connection with the submitted response. Failure to sign the Execution of Proposal or signing it with a false statement shall void the submitted offer or any resulting contracts.

Respondent represents and warrants that the individual signing this Execution of Proposal is authorized to sign this document on behalf of the Respondent and to bind the Respondent under any contract resulting from this request for proposals.

RESPONDENT (COMPANY): Magic in the Sky, LLC

SIGNATURE (IN INK): Jacob J Dell

NAME (TYPED/PRINTED): Jacob J Dell

TITLE: President DATE: 11/7/19

STREET: 26926 Hardy Run

CITY/STATE/ZIP: Boerne, TX 78015

TELEPHONE AND FAX/CELL NO.: 210 267 5371 / 210 247 6182

E-MAIL ADDRESS: Jacob@Magicinthesky.com

FEDERAL TAX IDENTIFICATION NUMBER (FIN): 26-0593236

By submitting a response to this solicitation, the Respondent agrees that the City's standard Definitions, Terms and Conditions, in effect at the time of release of the solicitation, shall govern unless specifically provided otherwise in a separate agreement or on the face of a purchase order. Said Definitions, Terms and Conditions are subject to change without notice. It is the sole responsibility of respondents to stay apprised of changes. In addition to the above General Terms and Conditions listed in Section IV, the City's Definitions, Terms and Conditions shall be enforced and part of the contract and can be obtained from the City's website at:

<https://www.roundrocktexas.gov/departments/purchasing/>

Exhibit "A"



www.MagicInTheSky.com

References for Magic in the Sky Displays:

Ben McTyre
Six Flags Fiesta Texas
Summers Since 2005
bmctyre@sftp.com
17000 IH10 West San Antonio, TX 78257
210-697-5482

Christina Julius
Busch Gardens Tampa
Summer Nights Since 2013
10165 N McKinley Dr, Tampa, Florida 33612
Robbi.Lepre@buschgardens.com
561-758-6209

Bill Drain
City of San Antonio July 4th and New Year's Eve since 2014
bdrain@satx.rr.com
400 N St Mary's St #101, San Antonio, TX 78205
210-849-4242

Scott Bradley
City of Laporte
July 4th since 2010
BradleyS@laportetx.gov
604 W. Fairmont Parkway; La Porte, Texas 77571
281-470-5141

Hema Viswanathan
City of San Antonio Diwali
First Saturday in November since 2012
hemavish@gmail.com
210-274-8450

San Antonio (Home) Office:
26926 Hardy Run
Boerne, TX 78015
Office: 210-267-5371
Fax: 210-247-6182

Houston Office:
14418 Country Haven Ct
Houston, TX 77044
Office: 281-352-7843

Exhibit "A"



ADDENDUM
CITY OF ROUND ROCK, TEXAS

Solicitation: RFP 19-004

Addendum No: 1

Date of Addendum: 11/28/18

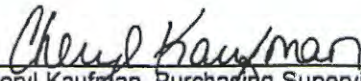
This addendum is to incorporate the following changes to the above referenced solicitation:

- I. **Add Contact:** The Authorized Contact for contractual and technical issues has been changed to the following:

Authorized Contact: Cheryl Kaufman
Purchasing Supervisor
512-416-5417
ckaufman@roundrocktexas.gov

- II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

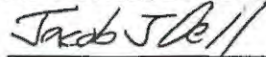
APPROVED BY:


Cheryl Kaufman, Purchasing Supervisor
Purchasing Office, 512-416-5417

November 28, 2018

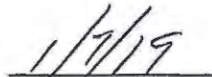
By the signature affixed below this addendum is hereby incorporated into and made a part of the above referenced solicitation.

ACKNOWLEDGED BY:



Name


Authorized Signature


Date

RETURN ONE SIGNED COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE WITH YOUR SEALED PROPOSAL. FAILURE TO DO SO MAY AUTOMATICALLY DISQUALIFY YOUR RESPONSE FROM CONSIDERATION FOR AWARD.

Exhibit "A"



ADDENDUM
CITY OF ROUND ROCK, TEXAS

Solicitation: RFP 19-004

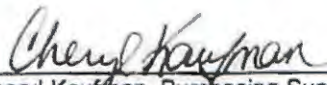
Addendum No: 2

Date of Addendum: 12/6/18

This addendum is to incorporate the following changes to the above referenced solicitation:

- I. **Extension:** The proposal due date is hereby extended until Tuesday, December 18, 2018, at 3:00 PM CST.
- II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

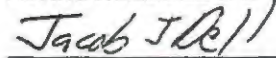
APPROVED BY:


Cheryl Kaufman, Purchasing Supervisor
Purchasing Office, 512-218-5417

December 6, 2018

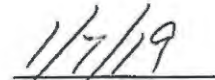
By the signature affixed below this addendum is hereby incorporated into and made a part of the above referenced solicitation.

ACKNOWLEDGED BY:



Name


Authorized Signature


Date

RETURN ONE SIGNED COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE WITH YOUR SEALED PROPOSAL. FAILURE TO DO SO MAY AUTOMATICALLY DISQUALIFY YOUR RESPONSE FROM CONSIDERATION FOR AWARD.

Exhibit "A"



**ADDENDUM
CITY OF ROUND ROCK, TEXAS**

Solicitation: RFP 19-004

Addendum No: 3

Date of Addendum: 12/13/18

This addendum is to incorporate the following changes to the above referenced solicitation:

I. Clarifications or Changes:

- A. Insurance requirements under Part II- Definitions, Standard Terms, and Conditions, referencing the City's "Standard Insurance Requirements," section 1.3.5 shall now read as follows:
- 1.3.5 Policies shall include, but not be limited to, the following minimum limits:
- 1.3.5.1. Minimum Bodily Injury Limits of \$1,000,000.00 per occurrence.
 - 1.3.5.2. Property Damage Insurance with minimum limits of \$1,000,000.00 for each occurrence.
 - 1.3.5.3. Automobile Liability Insurance for all owned, non-owned, and hired vehicles with minimum limits for Bodily Injury of \$1,000,000.00 each person, and \$1,000,000.00 for each occurrence, and Property Damage Minimum limits of \$1,000,000.00 for each occurrence.
 - 1.3.5.4. Statutory Worker's Compensation Insurance and minimum \$1,000,000.00 Employers Liability Insurance.
- B. With regards to Part IV in the Scope of Work, Item 3. Service Requirements has been modified and shall now read as follows:
- Primary Location:**
City of Round Rock
Old Settlers Park
3300 Palm Valley Blvd.
Round Rock, TX 78665
- Secondary (provisional) Location:**
City of Round Rock
PARD Yard
300 S. Burnet St.
Round Rock, TX 78664
- C. Please note the sites included on page 10 of the solicitation pdf are representative of the available firing sites. The smaller water cake sites are not a requirement as the overall presentation will be evaluated.


II. Questions:

- Q1: May we use 1.3G and/or 1.4G shells in our presentation?
- A1: Yes, given that this is a request for proposal we will evaluate your best presentation provided it still meets the requirements of working within the constraints of the appropriate radii.
- Q2: Is a DVD required with submission?
- A2: Absolutely, this is going to support your point allotment under "Respondent's Solution, Approach, and Timeline"
- Q3: When do you expect the first show to occur?
- A3: July 4, 2019.

Exhibit "A"

- III. **Extension:** The proposal due date is hereby extended until Wednesday, January 9, 2019 at 3:00 PM CST.
- IV. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY:


Cheryl Kaufman, Procurement Supervisor
Purchasing Office, 562-218-5417

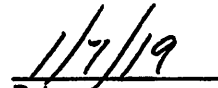
12/13/18

By the signature affixed below this addendum is hereby incorporated into and made a part of the above referenced solicitation.

ACKNOWLEDGED BY:


Name


Authorized Signature


Date

RETURN ONE SIGNED COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE WITH YOUR SEALED PROPOSAL. FAILURE TO DO SO MAY AUTOMATICALLY DISQUALIFY YOUR RESPONSE FROM CONSIDERATION FOR AWARD.

Exhibit "A"

1. In Part III, Item 2.3 the solicitation states the following:

"The Respondent shall include in the proposal a list all litigation the company or its principals have been involved in within the last three (3) years."

I did not see evidence of your proposal addressing this. Can you please provide me with the required list.

Jacob J Dell is plaintiff in trademark complaint against Sky Magic Pyrotechnics of Indiana.

2. Under Part V, Item F. the City requested that you provide resumes for all key persons. We did not see the resumes in your proposal as requested.

Please send me the resumes for all key personnel.

Please see attached.

3. Please confirm that you have no exceptions to the City's terms and conditions.

I confirm we have no exceptions to the City's terms and conditions other than we do not plan to shoot nauticals from the remote sites as proposed.

Please return these items to me by COB on Monday, January 14, 2019. Thank you so much for your help!

Kindest Regards,

Cheryl Kaufman

Purchasing Supervisor

City of Round Rock

ckaufman@roundrocktexas.gov

512-218-5417



Exhibit "A"



PRODUCTION SCHEDULE AND STAFF QUALIFICATIONS

Name	Title	Texas Licenses	States Operated In	Years of Experience	Shows Shot
Jacob J Dell	President	FPO, SEO, FEO	FL, IN, LA, MI, ND, NE, NJ, NM, OK, SD, TX, VA, WI, WY	19	1,400
Terry Stoll	Manager of Operations	FPO, SEO	IN, OH, MI, MO, FL, TX	21	800
Ronald Derrick	Lead Pyrotech	FPO, SEO, FEO	TX	24	350
Josh Villanueva	Lead Pyrotech	FPO, SEO, FEO	FL, TX, VA	11	600
Ryan Gardner	Lead Pyrotech	FPO, SEO	FL, TX	10	150
Donald Dell	Director of Marketing	FPO	ND, NE, SD, TX	16	100
Roy Frias	Lead Pyrotech	FPO	FL, TX	9	100
Javier Salazar	Assistant Pyrotech		FL, TX	8	450
Justin Guerrero	Assistant Pyrotech		TX	4	45
Robert Watson	Assistant Pyrotech		TX	4	45
William Arnold	Assistant Pyrotech		TX	3	20

Magic in the Sky engages in five days of pyrotechnic training annually to ensure our team members are updated on changes to the NFPA and IFC as well as best practices on FireOne UltraFire and NFA safety protocols. All Fireworks are AFSL certified.

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.

Magic in the Sky, LLC
Boerne, TX United States

Certificate Number:
2019-458272

Date Filed:
02/28/2019

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.

000000
Fireworks Display

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.



6 UNSWORN DECLARATION

My name is Jacob J Dell, and my date of birth is 09/07/1979.

My address is 26926 Hardy Run, Boerne, TX, 78015, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Bexar County, State of Texas, on the 28 day of February, 20 19.
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)



City of Round Rock

Agenda Item Summary

Agenda Number: H.4

Title: Consider a resolution authorizing the Mayor to execute a Contract with Pioneer Manufacturing Company for the purchase of irrigation parts and ground maintenance equipment and supplies.

Type: Resolution

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Chad McKenzie, Sports Management and Tourism Director

Cost: \$90,000.00

Indexes: General Fund; Hotel Occupancy Tax Fund

Attachments: Resolution, Exhibit A, Form 1295

Department: Sports Management and Tourism

Text of Legislative File 2019-0148

Pioneer Manufacturing Company will provide athletic field paint, supplies and equipment, per their Buy Board contract, to the City (specifically SM&T and PARD). Establishment of this contract will allow the City to order and pay invoices off of a single annual PO, rather than issuing a new PO for each individual order.

Cost: \$90,000

Source of Funds: General Fund and Hotel Occupancy Tax Fund

RESOLUTION NO. R-2019-0148

WHEREAS, the City of Round Rock (“City”) desires to purchase irrigation parts and grounds maintenance equipment and supplies for the Sports Management and Tourism Department and the Parks and Recreation Department, and related goods and services; and

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

WHEREAS, Pioneer Manufacturing Company is an approved vendor of the Buy Board; and

WHEREAS, the City desires to purchase certain goods and services from Pioneer Manufacturing Company 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 Irrigation Parts and Grounds Maintenance Equipment and Supplies with Pioneer Manufacturing Company, 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 11th day of April, 2019.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk

EXHIBIT

"A"

**CITY OF ROUND ROCK AGREEMENT FOR
FOR IRRIGATION PARTS AND
GROUNDS MAINTENANCE EQUIPMENT AND SUPPLIES
WITH
PIONEER MANUFACTURING COMPANY**

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 irrigation parts and ground maintenance equipment and supplies for the Sports Management and Tourism Department and the Parks and Recreation Department, 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 _____, 2019 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 PIONEER MANUFACTURING COMPANY, whose offices are located at 4529 Industrial Parkway, Cleveland, Ohio 44135 (referred to herein as "Vendor").

RECITALS:

WHEREAS, City desires to purchase certain goods and services, irrigation parts and grounds maintenance equipment and supplies, and City desires to procure same from Vendor; and

WHEREAS, City is a member of Buy Board Cooperative Purchasing Program ("Buy Board") and Vendor is an approved Buy Board vendor through Buy Board Contract #529-17; and

WHEREAS, City desires to purchase said 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 follow:

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 July 19, 2018 (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, 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 May 31, 2020.

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 ITEMS

A. The goods which are the subject matter of this Agreement are described generally in the attached Exhibit "A" and are as follows:

1. Golf and Turf Equipment, Supplies and Accessories (Line 1);
2. Sprayers, Supplies, and Accessories (Line 11);
3. Turf Maintenance Sweepers and Equipment, Supplies and Accessories (Line 16);
4. All other Types of Grounds Maintenance Equipment, Supplies, and Accessories (Line 20); and
5. Field and Turf Fertilizer, Conditioners, Dressing and Chemicals (Line 23)

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

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

5.01 COSTS

A. City agrees to pay for supplies during the term of this Agreement at the pricing set forth at www.pioneerathletics.com and as set forth in Exhibit "A."

B. The City shall be authorized to pay the Services Provider an amount not-to-exceed **Ninety Thousand and No/100 Dollars (\$90,000.00)** for the term of this Agreement.

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

David Buzzell
Assistant Director
Parks and Recreation Department
Bagdad
Round Rock, Texas 78664

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:

Pioneer Manufacturing Company
4529 Industrial Parkway
Cleveland, OH 44135

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 are 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: _____


Attest:

By: _____
Sara L. White, City Clerk

For City, Approved as to Form:

By: _____
Stephan L. Sheets, City Attorney

Pioneer Manufacturing Company

By:  _____
Printed Name: Daniel Ford
Title: Bid Coordinator
Date Signed: 3/4/19



Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation
(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered¹.)

NOTE: Vendors proposing various manufacturer product lines per line item on the Proposal Specification Form (Form S) must submit the information as follows or proposal may not be considered:

- Manufacturers shall be listed in alphabetical order
- Vendor's must list one specific percentage discount for each Manufacturer listed.

If a vendor's response to Proposal Specification Form (Form S) states "please see attachment sheet," all manufacturers listed on the attachment sheet must indicate per manufacturer the line item that correlates to Proposal Specification Form (Form S) or Vendor's proposal may not be considered.

NOTE 2: An awarded Vendor must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposer's responding to this Proposal Invitation should submit an approval letter from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist ¹	State Name of Catalog/Pricelist ¹	Exceptions to Discount
Section I: Grounds Maintenance Equipment, Supplies, Parts and Accessories - PURCHASE ONLY					
1	Discount (%) Off Catalog/Pricelist for Golf and Turf Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for Golf and Turf Equipment, Supplies, and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	0 %	Pioneer Athletics www.pioneerathletics.com	Quantity discounts may apply
2	Discount (%) Off Catalog/Pricelist for Tractors, Equipment, Supplies, and Accessories, 20 to 200 Engine HP	Please state the discount (%) off catalog/pricelist for Tractors, Equipment, Supplies, and Accessories, (20 to 200 Engine HP.) Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		
3	Discount (%) Off Catalog/Pricelist for Lawn and Garden Tractors, Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for Lawn and Garden Tractors, Equipment, Supplies, and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		

PROPOSAL NOTE

¹-Catalogs/Pricelists are required to be submitted with Proposal

Page 1 of 12

PROPOSAL SPECIFICATION FORM
FORM S

Exhibit "A"



Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation
(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered¹.)

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist ¹	State Name of Catalog/Pricelist ¹	Exceptions to Discount
4	Discount (%) Off Catalog/Pricelist for Front Mowers, Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for Front Mowers, Equipment, Supplies, and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		
5	Discount (%) Off Catalog/Pricelist for Wide Area Mowers, Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for Wide Area Mowers, Equipment, Supplies, and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		
6	Discount (%) Off Catalog/Pricelist for Zero Turn Mowers, Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for Zero Turn Mowers, Equipment, Supplies, and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		
7	Discount (%) Off Catalog/Pricelist for Walk Behind Mowers, Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for Walk Behind Mowers, Equipment, Supplies, and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		
8	Discount (%) Off Catalog/Pricelist for Utility Vehicles, Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for Utility Vehicles, Equipment, Supplies, and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		
9	Discount (%) Off Catalog/Pricelist for All Terrain Vehicles, Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for All Terrain Vehicles, Equipment, Supplies, and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		

PROPOSAL NOTE

¹- Catalogs/Pricelists are required to be submitted with Proposal

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PROPOSAL SPECIFICATION FORM
FORM 5

Exhibit "A"



Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation
(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered¹.)

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist ¹	State Name of Catalog/Pricelist ¹	Exceptions to Discount
10	Discount (%) Off Catalog/Pricelist for Cutters and Shredders, Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for Cutters and Shredders, Equipment, Supplies, and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		
11	Discount (%) Off Catalog/Pricelist for Sprayers, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for Sprayers, Supplies, and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	0 _____ %	Pioneer Athletics www.pioneerathlet cs.com	Quantity discounts may apply
12	Discount (%) Off Catalog/Pricelist for Scraper, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for Scraper, Supplies, and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		
13	Discount (%) Off Catalog/Pricelist for Hand Held Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for Hand Held Equipment, Supplies, and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		
14	Discount (%) Off Catalog/Pricelist for Landscape and Turf Care Attachments	Please state the discount (%) off catalog/pricelist for Landscape and Turf Care Attachments. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		

PROPOSAL NOTE

1. Catalogs/Pricelists are required to be submitted with Proposal

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PROPOSAL SPECIFICATION FORM
FORM 5

Exhibit "A"



Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation
(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered¹.)

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist ¹	State Name of Catalog/Pricelist ¹	Exceptions to Discount
15	Discount (%) Off Catalog/Pricelist for Parking Lot/Sidewalk Sweepers, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for Parking Lot/Sidewalk Sweepers, Supplies, and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		
16	Discount (%) Off Catalog/Pricelist for Turf Maintenance Sweepers and Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for Turf Maintenance Sweepers and Equipment, Supplies, and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	0 _____ %	Pioneer Athletics www.pioneerathletics.com	Quantity discounts may apply
17	Discount (%) Off Catalog/Pricelist for Outdoor Scrubbers, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for Outdoor Scrubbers, Supplies, and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		
18	Discount (%) Off Catalog/Pricelist for Hydroseeding Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for Hydroseeding Equipment, Supplies, and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		

PROPOSAL NOTE

¹-Catalogs/Pricelists are required to be submitted with Proposal

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PROPOSAL SPECIFICATION FORM
FORM 5

Exhibit "A"



Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation
(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered¹.)

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist ¹	State Name of Catalog/Pricelist ¹	Exceptions to Discount
19	Discount (%) Off Catalog/Pricelist for Bark and Straw Blowers and Crimper Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for Bark and Straw Blowers and Crimper Equipment, Supplies, and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		
20	Discount (%) Off Catalog/Pricelist for All Other Types of Grounds Maintenance Equipment, Supplies and Accessories	Please state the discount (%) off catalog/pricelist for All Other Types of Grounds Maintenance Equipment, Supplies and Accessories. Catalog/Pricelist MUST be included or proposal will not be considered.	0 _____ %	Pioneer Athletics www.pioneerathletics.com	Quantity discounts may apply
21	Discount (%) Off Catalog/Pricelist for Ground Maintenance Equipment Repair Parts	Please state the discount (%) off catalog/pricelist for Ground Maintenance Equipment Repair Parts. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		

PROPOSAL NOTE

1. Catalogs/Pricelists are required to be submitted with Proposal

Page 5 of 12

PROPOSAL SPECIFICATION FORM
FORM 5

Exhibit "A"



Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation
(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered¹.)

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist ¹	State Name of Catalog/Pricelist ¹	Exceptions to Discount
22	Discount (%) Off Catalog/Pricelist for Ground Maintenance Equipment Service Agreements	Please state the discount (%) off catalog/pricelist for Ground Maintenance Equipment Service Agreements. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		
23	Discount (%) Off Catalog/Pricelist for Field and Turf Fertilizer, Conditioners, Dressings and Chemicals	Please state the discount (%) off catalog/pricelist for Field and Turf Fertilizer, Conditioners, Dressings and Chemicals. Catalog/Pricelist MUST be included or proposal will not be considered.	0 _____ %	Pioneer Athletics www.pioneerathletics.com	Quantity discounts may apply
24	Discount (%) Off Catalog/Pricelist for Nursery Products	Please state the discount (%) off catalog/pricelist for Nursery Products (shade trees, shrubs, and other related items). Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		
25	Discount (%) Off Catalog/Pricelist for Specialty Soils for Athletic Fields, Play Surfaces, or Park Surfaces	Please state the discount (%) off catalog/pricelist for Specialty Soils for Athletic Fields, Play Surfaces, or Park Surfaces. Catalog/Pricelist MUST be included or proposal will not be considered.	_____ %		

PROPOSAL NOTE

¹ Catalogs/Pricelists are required to be submitted with Proposal

Page 6 of 12

PROPOSAL SPECIFICATION FORM
FORM 5

Exhibit "A"

ATTACHMENT A - COST SHEET

Pioneer Manufacturing Company

The respondent shall reference BuyBoard Contract Number 529-17 for all Pricing.

This Cost Sheet is an example of an annual order the City of Round Rock may place. It is not a complete list and the City reserves the right to purchase these and other items as allowed for on the BuyBoard contract.

Please fill out this document, sign, and return to the City's Purchasing department.

Item #	Item Description	Item #	Quantity	Unit Type	Unit Price	Extended Price
1	Brite Stripe White	ATHW5	100	5 Gallon	\$55.00	\$ 5,500.00
2	Brite Stripe Yellow	ATHY5	80	5 Gallon	\$67.00	\$ 5,360.00
3	Brite Stripe Red	ATHR5	30	5 Gallon	\$72.00	\$ 2,160.00
4	Max Aerosol Green	AMAXG12	40	Case of 12	\$71.00	\$ 2,840.00
5	Blitz Gameline Remover	TB05G	20	5 Gallon	\$106.00	\$ 2,120.00
6	Gameline Aerosol White	GLAW12	100	Case of 12	\$168.45	\$ 16,845.00
7	Basic Cord 1200' Reel	LM1200	10	Each	\$131.45	\$ 1,314.50
8	Basic Cord 500' Reel	LM500	10	Each	\$104.45	\$ 1,044.50
Total for Example Cost Sheet						\$ 37,184.00

COMPANY NAME: ___PIONEER ATHLETICS___

SIGNATURE OF AUTHORIZED REPRESENTATIVE: 

PRINTED NAME: _____Eloy Atkinson_____

PHONE NUMBER: _____830-399-0304_____

EMAIL ADDRESS: ___EATKINSON@PIONEERATHLETICS.COM___

Exhibit "A"

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.

Pioneer Manufacturing Company
Cleveland, OH United States

Certificate Number:
2019-459503

Date Filed:
03/04/2019

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.

529-17
Grounds Maintenance Supplies

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.



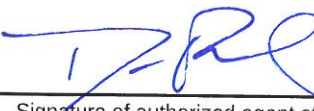
6 UNSWORN DECLARATION

My name is Daniel Ford, and my date of birth is 04/13/1987.

My address is 4529 Industrial Parkway, Cleveland, OH, 44135, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Cuyahoga County, State of OH, on the 4 day of March, 2019.
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)



City of Round Rock

Agenda Item Summary

Agenda Number: H.5

Title: Consider a resolution determining that Competitive Sealed Proposal is the delivery method which provides the best value for the Downtown Historical Water Tank Project.

Type: Resolution

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Michael Thane, Utilities and Environmental Services Director

Cost: \$0.00

Indexes:

Attachments: Resolution

Department: Utilities and Environmental Services

Text of Legislative File 2019-0157

The original water tank located in downtown City of Round Rock was erected by Pittsburgh-Des Moines Steel Company (PDM) in 1936 and remained in use until 1986 when it was decommissioned. The tank now serves as a historical downtown monument for the City.

The City currently has a project in process to rehabilitate the tank. The project consists of minor structural repairs and recoating the interior and exterior of the tank. Due to the tank's age, condition and central location, the Utility Staff would like to use the Competitive Sealed Proposal delivery method to bid this project. By using this method, the City will be able to obtain the most qualified contractor which will in turn provide the best value to the City.

The City's Utility Staff requests approval of the City Council to allow the Competitive Sealed Proposal delivery method for the Downtown Historical Water Tank rehabilitation project.

Cost: N/A

Source of Funds: N/A

RESOLUTION NO. R-2019-0157

WHEREAS, Texas Government Code, Chapter 2269 allows governmental entities to use certain methods other than competitive bidding in entering into contracts for construction of facilities, as defined therein, and

WHEREAS, the City of Round Rock is considering using an alternative method other than competitive bidding in entering into a contract for the Downtown Historical Water Tank Project (“Project”), and

WHEREAS, the statute requires that a project-by-project determination be made as to what method provides the best value for the governmental entity in relation to a particular project, and

WHEREAS, the Council has determined that the Project would be best served by utilizing the “Competitive Sealed Proposal” method, and

WHEREAS, Texas Government Code, Section 2269.056(a) mandates the “governing body of a governmental entity that considers a construction contract using a method authorized by this chapter other than competitive bidding must, before advertising, determine which method provides the best value for the governmental entity,” and

WHEREAS, the City Council desires to comply with all requirements of the statute, Now
Therefore

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

In accordance with Texas Government Code §2269.056(a), the Council has determined that “Competitive Sealed Proposal” is the delivery method which provides the best value for the City for the Downtown Historical Water Tank Project located in Downtown Round Rock, Texas.

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 11th day of April, 2019.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk



City of Round Rock

Agenda Item Summary

Agenda Number: H.6

Title: Consider a resolution authorizing the City Manager to issue a Purchase Order to Silsbee Ford for the purchase of two (2) new vehicles for the Police Department.

Type: Resolution

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Chad McDowell, General Services Director

Cost: \$116,534.56

Indexes: General Self-Financed Purchases; General Fund

Attachments: Resolution, Quote, Form 1295

Department: General Services Department

Text of Legislative File 2019-0149

These two new vehicles were approved as new programs for FY2019 for the Police Department.

This request is for the purchase of two new 2019 Ford Interceptor SUVs, in accordance with Goodbuy Cooperative Contract No. 19-8F000.

Cost: \$116,534.56

Source of Funds: General Fund and General Self-Financed Purchases

RESOLUTION NO. R-2019-0149

WHEREAS, the City of Round Rock (“City”) desires to purchase two (2) new vehicles for the Police Department; and

WHEREAS, City is a member of the GoodBuy Purchasing Cooperative, a cooperative purchasing program; and

WHEREAS, Silsbee Ford is an approved vendor of the GoodBuy Purchasing Cooperative; and

WHEREAS, the City wishes to issue a purchase order to Silsbee Ford, Now Therefore

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

That the City Manager is hereby authorized and directed to issue a purchase order to Silsbee Ford for the purchase of two (2) new vehicles for the Police Department.

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 11th day of April, 2019.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk



PRODUCT PRICING SUMMARY

GOODBUY 19 - 8F000 VEHICLES

VENDOR—Silsbee Ford, 1211 Hwy 96 N., Silsbee TX 77656

End User: CITY OF ROUND ROCK

Prepared by: GLEN ANGELLE

Contact: SCOTT PARKER

Phone: 409-880-9191

Email: _____

Email: gangelles.cowboyfleet@gmail.com

Product Description: 2020 FORD INTERCEPTOR UTILITY AWD

Date: January 16, 2019

A. Bid Item: _____

A. Base Price: \$ 34,964.00

B. Factory Options

Code	Options	Bid Price	Code	Options	Bid Price
99B	EMERGENCY EQUIPMENT	\$ 25,790.28		EXT BLACK	
17A	REAR A/C	\$ 610.00		INT CLOTH BUCKETS/REAR VINYL	
51S	DUAL LED SPOTLIGHTS	\$ 620.00		SYNC (HAND FREE)	
60A	GRILL WIRING	\$ 50.00		4 KEYS	
86T	RR TAILLAMP HSG.	\$ 60.00		CRUISE	
	SYNC			3.3L V6	\$ (4,196.42)
	PRE DRILLED HEADLAMP HOUSING				
	POWER WINDOWS/LOCKS				
	AM/FM/CD/				
	REAR CAMERA				

Total of B. Published Options: \$ 22,933.86

Published Option Discount (5%): \$ 142.82

C. Additional Options [not to exceed 25%]

\$= 0.0 %

Options	Bid Price	Options	Bid Price

Total of C. Unpublished Options: \$ -

D. Floor Plan Interest (for in-stock and/or equipped vehicles):

\$ -

E. Lot Insurance (for in-stock and/or equipped vehicles):

\$ (90.15)

F. Contract Price Adjustment: 2 YR REG & DOC FEE

\$ 166.75

G. Additional Delivery Charge: 0 miles

\$ -

H. Subtotal:

\$ 58,117.28

I. Quantity Ordered 2 **x K =**

\$ 116,234.56

J. Trade in: _____

\$

K. GOODBUY Administrative Fee (\$300 per purchase order)

\$ 300.00

L. TOTAL PURCHASE PRICE INCLUDING GOODBUY FEE

\$ 116,534.56

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:
2019-465686

Date Filed:
03/20/2019

Date Acknowledged:

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

silsbee ford
SILSBEE, 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.

GOODBUY 19-8F000
TWO 2020 FORD INTERCEPTORS

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	DONALSON, DREW	SILSBEE, TX United States	X	

5 Check only if there is NO Interested Party.

☐

6 UNSWORN DECLARATION

My name is A Glen Angello and my date of birth is 3-26-58

My address is 1211 U.S. Hwy 94 N Silsbee TX 77656 US
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Hardin County, State of Tx, on the 20 day of 3, 2019.
(month) (year)


Signature of authorized agent of contracting business entity
(Declarant)



City of Round Rock

Agenda Item Summary

Agenda Number: H.7

Title: Consider a resolution authorizing the Mayor to execute a Contract with Siddons-Martin Emergency Group, LLC for the purchase of equipment, repair parts and repair services for fire apparatus vehicles.

Type: Resolution

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Chad McDowell, General Services Director

Cost: \$540,000.00

Indexes: General Fund

Attachments: Resolution, Exhibit A, Form 1295

Department: General Services Department

Text of Legislative File 2019-0150

This agreement is to purchase of optional equipment, repair parts, and repair services for fire apparatus service vehicles, in accordance with the BuyBoard Cooperative Contract No. 571-18.

Most of the parts for the Fire Apparatus are brand specific and there is only one vendor within a reasonable distance.

Cost: \$540,000.00 (not to exceed amount 2 year term)

Source of Funds: General Fund

RESOLUTION NO. R-2019-0150

WHEREAS, the City of Round Rock (“City”) desires to purchase certain deliverables, specifically equipment, repair parts, and repair services for fire apparatus service vehicles, and for related goods and services; and

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

WHEREAS, Siddons-Martin Emergency Group, LLC is an approved vendor of the Buy Board; and

WHEREAS, the City desires to purchase certain goods and services from Siddons-Martin Emergency Group, 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 Equipment, Repair Parts, and Repair Services for Fire Apparatus Service Vehicles with Siddons-Martin Emergency Group, 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 11th day of April, 2019.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk

EXHIBIT

"A"

**CITY OF ROUND ROCK AGREEMENT FOR
PURCHASE OF EQUIPMENT, REPAIR PARTS, AND REPAIR SERVICES
FOR FIRE APPARATUS SERVICE VEHICLES
WITH
SIDDONS-MARTIN EMERGENCY GROUP, 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 equipment, repair parts, and repair services for fire apparatus service vehicles, 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 _____, 2019 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 SIDDONS-MARTIN EMERGENCY GROUP, LLC, whose offices are located at 1362 E. Richey Road, Houston, Texas 77073 (referred to herein as "Vendor").

RECITALS:

WHEREAS, City desires to purchase certain deliverables, specifically equipment, repair parts, and repair services for fire apparatus service vehicles, 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 # 571-18; 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 goods and services and Vendor is obligated to sell said goods and services.

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, 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 September 30, 2021.

C. 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 ITEMS

A. The goods which are the subject matter of this Agreement are described generally in the attached Exhibit "A."

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

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

5.01 COSTS

A. City agrees to pay for goods and/or services during the term of this Agreement at the pricing set forth in the Vendor's catalog and as set forth in Exhibit "A." Vendor specifically acknowledged and agrees that City is not obligated to use or purchase any estimated annual quantity of goods. Only if, and when needed by City, the costs listed on Exhibit "A" shall be the basis of any charges collected by Vendor.

B. In consideration for the deliverables and services related to the deliverables, the City agrees to pay Vendor an amount not to exceed **One Hundred Eighty Thousand and No/100 Dollars (\$180,000.00) per year** for the goods and services set forth in this Agreement for a total not-to-exceed amount of **Five Hundred Forty Thousand and No/100 Dollars (\$540,000.00)** for the term of this Agreement.

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 VENDORS

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:

Chad McDowell
General Services Director
212 Commerce Cove
Round Rock, Texas 78664
(512) 341-3191
cmcdowell@roundrocktexas.gov

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

Siddons-Martin Emergency Group, LLC
1362 East Richey Road
Houston, Texas 77073

Notice to City:

City Manager
221 East Main Street
Round Rock, TX 78664

Stephan L. Sheets, City Attorney
AND TO: 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.

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: _____

Attest:

By: _____
Sara L. White, City Clerk

For City, Approved as to Form:

By: _____
Stephan L. Sheets, City Attorney

Siddons-Martin Emergency Group, LLC

By: Jeffrey A. Duran
Printed Name: Jeffrey A. Duran
Title: G.M. - Sales Operations
Date Signed: 3-1-2014

EXHIBIT "A"

Bid Sheet - Siddons Martin - Buyboard Contract 571-18

City of Round Rock, Texas Price Sheet Siddons-Martin Emergency Group BuyBoard Contract 571-18

The City of Round Rock would like to enter into a contract with Siddons-Martin per the terms of Buy Board Contract 571-18. The City intends to purchase from this contract optional equipment, repair parts, and repair services in an amount not to exceed \$180,000 per fiscal year for a total not to exceed amount of \$540,000.

Note: New Fire Apparatus that may be bought under this cooperative will be purchased separately and will not fall under this contract.

Contract Term: Effective from date of execution and will expire on 09/30/2021, per the terms of BuyBoard Contract No. 571-18.

Special Instructions: Complete pricing below and submit copy of price list or catalog.

OPTIONAL EQUIPMENT and PARTS - Options will be selected by the Cooperative member at the time of order				
Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist	State Name of Catalog/Pricelist
1	Discount (%) Off Catalog/Pricelist for Original Equipment Manufacturer (OEM) Options	Please state the discount (%) off catalog/pricelist for all Original Equipment Manufacturer (OEM) Options. Please Include catalog/price list or website for catalog/price list.	0%	No Parts Catalogs are available. Parts mark is based at our cost x1.67 plus any freight or handling fees.
2	Discount (%) Off Catalog/Pricelist for Third Party (not OEM) and Unpublished Options	Please state the discount (%) off catalog/pricelist for all Third Party (not OEM) and Unpublished Options and Equipment. Please Include catalog/price list or website for catalog/price list.	0%	No Parts Catalogs are available. Parts mark is based at our cost x1.67 plus any freight or handling fees.
3	Discount (%) Off Catalog/Pricelist for Original Equipment Manufacturer (OEM) Parts	Please state the discount (%) off catalog/pricelist for all Original Equipment Manufacturer (OEM) Parts. Please Include catalog/price list or website for catalog/price list.	0%	No Parts Catalogs are available. Parts mark is based at our cost x1.67 plus any freight or handling fees.
4	Discount (%) Off Catalog/Pricelist for Other Fire Apparatus Products and Services	Please state the discount (%) off catalog/pricelist for all Other Fire Apparatus Products and Services (refurbishing, modification, uplifting, remounting services and equipment). Please Include catalog/price list or website for catalog/price list. If additional space is required, please add additional catalogs names or price lists stating discount (%) off on a separate sheet of paper.	0%	No Parts Catalogs are available. Parts mark is based at our cost x1.67 plus any freight or handling fees.
5	Discount (%) Off Catalog/Pricelist for Extended Service Maintenance Agreements	Please state the discount (%) off catalog/pricelist for all Extended Service Maintenance Agreements. Please Include catalog/price list or website for catalog/price list.	0%	No Parts Catalogs are available. Parts mark is based at our cost x1.67 plus any freight or handling fees.
Delivery Fees and Labor Rate for Installation and Repair Service of Fire Service Apparatus Vehicles				
Item No.	Short Description	Full Description	Hourly Labor Rate and Delivery Fee	
6	Not to Exceed Hourly Labor Rate for Installation and Repair Service of Fire Apparatus Equipment and Products	Hourly Labor Rate for Installation and Repair Service of Fire Apparatus Equipment and Products -- State the Not to Exceed hourly labor rate for Installation/Repair Service of Equipment and Products.	\$132.00 per hour	
7	Per Mile Delivery Fee for Fire Service Apparatus Vehicles	Per Mile Delivery Fee for Fire Apparatus -- State the per mile delivery fee for fire service apparatus vehicles.	\$132.00 per travel hour to and from specified location of service work requested	

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:
2019-458478

Date Filed:
02/28/2019

Date Acknowledged:

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

Siddons Martin Emergency Group, LLC
Houston, 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.

000000
Fire apparatus

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Martin Jr., Leon	Houston, TX United States	X	
	Siddons, Patrick	Houston, TX United States	X	

5 Check only if there is NO Interested Party. ☐

6 UNSWORN DECLARATION

My name is Kathryn Williams, and my date of birth is 5/3/84

My address is 1362 East Richey Road, Houston, TX, 77073, USA
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Harris County, State of Texas, on the 28th day of February, 2019.
(month) (year)

Kathryn Williams
Signature of authorized agent of contracting business entity
(Declarant)



City of Round Rock

Agenda Item Summary

Agenda Number: H.8

Title: Consider a resolution authorizing the Mayor to execute a Public Highway At-Grade Crossing Agreement with Union Pacific Railroad Company for construction of a new at grade public road crossing for Harrell Parkway.

Type: Resolution

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Gary Hudder, Transportation Director

Cost: \$111,800.00

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

Attachments: Resolution, Exhibit A

Department: Transportation Department

Text of Legislative File 2019-0154

This agreement is between Union Pacific Railroad Company (UPRR) and the City of Round Rock for a new at grade public crossing over Harrell Parkway at mile post 158.47, as part of the Kalahari development and the quiet zone project. This agreement will give the Political Body (City of Round Rock) the right to construct, maintain and repair the roadway over and across the Crossing Area. This agreement will cost \$111,800.00 to UPRR.

This agreement is a portion of an overall agreement with UPRR, in combination with similar improvements to the existing crossing at the Brushy Creek Plant Road.

Cost: \$111,800.00

Source of Funds: RR Transportation and Economic Development Corporation. (Type B)

RESOLUTION NO. R-2019-0154

WHEREAS, as part of the Kalahari development and the Quiet Zone Project, the City of Round Rock (“City”) desires to construct a new at grade public road crossing over Harrell Parkway DOT No. 972310C at Mile Post 158.47, as shown on Exhibit “A” of the Public Highway At-Grade Crossing Agreement, and

WHEREAS, the City wishes to enter into a Public Highway At-Grade Crossing Agreement with Union Pacific Railroad Company, 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 Public Highway At-Grade Crossing Agreement with Union Pacific Railroad Company, 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 11th day of April, 2019.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk

EXHIBIT

"A"

UP Real Estate Folder No.: 3130-44
Audit Number _____

PUBLIC HIGHWAY AT-GRADE CROSSING

HARRELL PARKWAY
DOT 972310C
MILE POST 158.47 AUSTIN SUB
ROUND ROCK, WILLIAMSON COUNTY, TEXAS

THIS AGREEMENT ("Agreement") is made and entered into as of the ____ day of _____, 20____ ("Effective Date"), by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, to be addressed at Real Estate Department, 1400 Douglas Street, Mail Stop 1690, Omaha, Nebraska 68179 ("Railroad") and **CITY OF ROUND ROCK**, a municipal corporation or political subdivision of the State of Texas to be addressed at 2008 Enterprise Drive, Round Rock, TX 78664 ("Political Body").

RECITALS:

The Political Body desires to undertake as its project (the "Project") the construction of a new at grade public road crossing over HARRELL PARKWAY **DOT Number 972310C** at Railroad's Milepost 158.47 on Railroad's Austin Subdivision at or near Round Rock, Williamson County, Texas (the "Crossing Area"). The Crossing Area is shown on the print marked **Exhibit A** and further described in the plans marked **Exhibit A-1** with each exhibit being attached hereto and hereby made a part hereof. The portion of the roadway located within the Crossing Area is the "Roadway".

The Railroad and the Political Body are entering into this Agreement to cover the above.

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

Section 1. EXHIBIT B

The general terms and conditions marked **Exhibit B**, are attached hereto and hereby made a part hereof.

Section 2. RAILROAD GRANTS RIGHT

For and in consideration of the sum of **ONE HUNDRED ELEVEN THOUSAND AND EIGHT HUNDRED DOLLARS (\$111,800.00)** to be paid by the Political Body to the Railroad upon the execution and delivery of this Agreement and in further consideration of the Political Body's agreement to perform and comply with the terms of this Agreement, the Railroad hereby grants to the Political Body the right to construct, maintain and repair the Roadway over and across the Crossing Area.

Section 3. DEFINITION OF CONTRACTOR

For purposes of this Agreement the term "Contractor" shall mean the contractor or contractors hired by the Political Body to perform any Project work on any portion of the Railroad's property and shall also include the Contractor's subcontractors and the Contractor's and subcontractor's respective employees, officers and agents, and others acting under its or their authority.

Section 4. CONTRACTOR'S RIGHT OF ENTRY AGREEMENT - INSURANCE

A. Prior to Contractor performing any work within the Crossing Area and any subsequent maintenance and repair work, the Political Body shall require the Contractor to:

- execute the Railroad's then current Contractor's Right of Entry Agreement
- obtain the then current insurance required in the Contractor's Right of Entry Agreement; and
- provide such insurance policies, certificates, binders and/or endorsements to the Railroad.

B. The Railroad's current Contractor's Right of Entry Agreement is marked **Exhibit D**, attached hereto and hereby made a part hereof. The Political Body confirms that it will inform its Contractor that it is required to execute such form of agreement and obtain the required insurance before commencing any work on any Railroad property. Under no circumstances will the Contractor be allowed on the Railroad's property without first executing the Railroad's Contractor's Right of Entry Agreement and obtaining the insurance set forth therein and also providing to the Railroad the insurance policies, binders, certificates and/or endorsements described therein.

C. All insurance correspondence, binders, policies, certificates and/or endorsements shall be sent to:

Manager - Contracts
Union Pacific Railroad Company
Real Estate Department
1400 Douglas Street, Mail Stop 1690
Omaha, NE 68179-1690
UP File Folder No. 3130-44

D. If the Political Body's own employees will be performing any of the Project work, the Political Body may self-insure all or a portion of the insurance coverage subject to the Railroad's prior review and approval.

Section 5. FEDERAL AID POLICY GUIDE

If the Political Body will be receiving any federal funding for the Project, the current rules, regulations and provisions of the Federal Aid Policy Guide as contained in 23 CFR 140, Subpart I and 23 CFR 646, Subparts A and B are incorporated into this Agreement by reference.

Section 6. NO PROJECT EXPENSES TO BE BORNE BY RAILROAD

The Political Body agrees that no Project costs and expenses are to be borne by the Railroad. In addition, the Railroad is not required to contribute any funding for the Project.

Section 7. WORK TO BE PERFORMED BY RAILROAD; BILLING SENT TO POLITICAL BODY; POLITICAL BODY'S PAYMENT OF BILLS

A. The work to be performed by the Railroad, at the Political Body's sole cost and expense, is described in the Railroad's Material and Force Account Estimates dated 7/9/18 and 10/5/18, marked **Exhibit C**, attached hereto and hereby made a part hereof (the "Estimates"). As set forth in the Estimates, the Railroad's estimated cost for the Railroad's work associated with the Project is ONE MILLION SEVENTY FIVE THOUSAND SIX HUNDRED SEVENTEEN DOLLARS (\$1,075,617.00).

B. The Railroad, if it so elects, may recalculate and update the Estimate submitted to the Political Body in the event the Political Body does not commence construction on the portion of the Project located on the Railroad's property within six (6) months from the date of the Estimate.

C. The Political Body acknowledges that the Estimate does not include any estimate of flagging or other protective service costs that are to be paid by the Political Body or the Contractor in connection with flagging or other protective services provided by the Railroad in connection with the Project. All of such costs incurred by the Railroad are to be paid by the Political Body or the Contractor as determined by the Railroad and the Political Body. If it is determined that the Railroad will be billing the Contractor directly for such costs, the Political Body agrees that it will pay the Railroad for any

flagging costs that have not been paid by any Contractor within thirty (30) days of the Contractor's receipt of billing

D. The Railroad shall send progressive billing to the Political Body during the Project and final billing to the Political Body within one hundred eighty (180) days after receiving written notice from the Political Body that all Project work affecting the Railroad's property has been completed.

E. The Political Body agrees to reimburse the Railroad within thirty (30) days of its receipt of billing from the Railroad for one hundred percent (100%) of all actual costs incurred by the Railroad in connection with the Project including, but not limited to, all actual costs of engineering review (including preliminary engineering review costs incurred by Railroad prior to the Effective Date of this Agreement), construction, inspection, flagging (unless flagging costs are to be billed directly to the Contractor), procurement of materials, equipment rental, manpower and deliveries to the job site and all direct and indirect overhead labor/construction costs including Railroad's standard additive rates.

Section 8. PLANS

A. The Political Body, at its expense, shall prepare, or cause to be prepared by others, the detailed plans and specifications for the Project and the Structure and submit such plans and specifications to the Railroad's Assistant Vice President Engineering-Design, or his authorized representative, for prior review and approval. The plans and specifications shall include all Roadway layout specifications, cross sections and elevations, associated drainage, and other appurtenances.

B. The final one hundred percent (100%) completed plans that are approved in writing by the Railroad's Assistant Vice President Engineering-Design, or his authorized representative, are hereinafter referred to as the "Plans". The Plans are hereby made a part of this Agreement by reference.

C. No changes in the Plans shall be made unless the Railroad has consented to such changes in writing.

D. The Railroad's review and approval of the Plans will in no way relieve the Political Body or the Contractor from their responsibilities, obligations and/or liabilities under this Agreement, and will be given with the understanding that the Railroad makes no representations or warranty as to the validity, accuracy, legal compliance or completeness of the Plans and that any reliance by the Political Body or Contractor on the Plans is at the risk of the Political Body and Contractor.

Section 9. NON-RAILROAD IMPROVEMENTS

A. Submittal of plans and specifications for protecting, encasing, reinforcing, relocation, replacing, removing and abandoning in place all non-railroad owned facilities

(the "Non Railroad Facilities") affected by the Project including, without limitation, utilities, fiber optics, pipelines, wirelines, communication lines and fences is required under Section 8. The Non Railroad Facilities plans and specifications shall comply with Railroad's standard specifications and requirements, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines. Railroad has no obligation to supply additional land for any Non Railroad Facilities and does not waive its right to assert preemption defenses, challenge the right-to-take, or pursue compensation in any condemnation action, regardless if the submitted Non Railroad Facilities plans and specifications comply with Railroad's standard specifications and requirements. Railroad has no obligation to permit any Non Railroad Facilities to be abandoned in place or relocated on Railroad's property.

B. Upon Railroad's approval of submitted Non Railroad Facilities plans and specifications, Railroad will attempt to incorporate them into new agreements or supplements of existing agreements with Non Railroad Facilities owners or operators. Railroad may use its standard terms and conditions, including, without limitation, its standard license fee and administrative charges when requiring supplements or new agreements for Non Railroad Facilities. Non Railroad Facilities work shall not commence before a supplement or new agreement has been fully executed by Railroad and the Non Railroad Facilities owner or operator, or before Railroad and Political Body mutually agree in writing to (i) deem the approved Non Railroad Facilities plans and specifications to be Plans pursuant to Section 8B, (ii) deem the Non Railroad Facilities part of the Structure, and (iii) supplement this Agreement with terms and conditions covering the Non Railroad Facilities.

Section 10. EFFECTIVE DATE; TERM; TERMINATION

A. This Agreement is effective as of the Effective Date first herein written and shall continue in full force and effect for as long as the Roadway remains on the Railroad's property.

B. The Railroad, if it so elects, may terminate this Agreement effective upon delivery of written notice to the Political Body in the event the Political Body does not commence construction on the portion of the Project located on the Railroad's property within twelve (12) months from the Effective Date.

C. If the Agreement is terminated as provided above, or for any other reason, the Political Body shall pay to the Railroad all actual costs incurred by the Railroad in connection with the Project up to the date of termination, including, without limitation, all actual costs incurred by the Railroad in connection with reviewing any preliminary or final Project Plans.

Section 11. CONDITIONS TO BE MET BEFORE POLITICAL BODY CAN COMMENCE WORK

Neither the Political Body nor the Contractor may commence any work within the Crossing Area or on any other Railroad property until:

- (i) The Railroad and Political Body have executed this Agreement.
- (ii) The Railroad has provided to the Political Body the Railroad's written approval of the Plans.
- (iii) Each Contractor has executed Railroad's Contractor's Right of Entry Agreement and has obtained and/or provided to the Railroad the insurance policies, certificates, binders, and/or endorsements required under the Contractor's Right of Entry Agreement.
- (iv) Each Contractor has given the advance notice(s) required under the Contractor's Right of Entry Agreement to the Railroad Representative named in the Contractor's Right of Entry Agreement.

Section 12. FUTURE PROJECTS

Future projects involving substantial maintenance, repair, reconstruction, renewal and/or demolition of the Roadway shall not commence until Railroad and Political Body agree on the plans for such future projects, cost allocations, right of entry terms and conditions and temporary construction rights, terms and conditions.

Section 13. ASSIGNMENT; SUCCESSORS AND ASSIGNS

A. Political Body shall not assign this Agreement without the prior written consent of Railroad.

B. Subject to the provisions of Paragraph A above, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of Railroad and Political Body.

Section 14. SPECIAL PROVISIONS PERTAINING TO AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

If the Political Body will be receiving American Recovery and Reinvestment Act ("ARRA") funding for the Project, the Political Body agrees that it is responsible in performing and completing all ARRA reporting documents for the Project. The Political Body confirms and acknowledges that Section 1512 of the ARRA provisions applies only to a "recipient" receiving ARRA funding directing from the federal government and, therefore, (i) the ARRA reporting requirements are the responsibility of the Political

Body and not of the Railroad, and (ii) the Political Body shall not delegate any ARRA reporting responsibilities to the Railroad. The Political Body also confirms and acknowledges that (i) the Railroad shall provide to the Political Body the Railroad's standard and customary billing for expenses incurred by the Railroad for the Project including the Railroad's standard and customary documentation to support such billing, and (ii) such standard and customary billing and documentation from the Railroad provides the information needed by the Political Body to perform and complete the ARRA reporting documents. The Railroad confirms that the Political Body and the Federal Highway Administration shall have the right to audit the Railroad's billing and documentation for the Project as provided in Section 11 of **Exhibit B** of this Agreement.

Section 15. SIGNAL MAINTENANCE COSTS

A. **Effective as of the completion date of installation of crossing warning signals,** the Political Body, in addition to maintaining at its sole cost and expense the portion of the Roadway described in Section 2 of **Exhibit B**, agrees to pay to Railroad the sum of SIXTEEN THOUSAND EIGHT HUNDRED THIRTY DOLLARS (\$16,830.00) per annum, payable annually in advance, as payment for Railroad's maintenance of the railroad crossing warning signals that are to be installed by the Railroad at the Crossing Area.

B. The above annual fee is based on the number of current signal units at the Crossing Area, as shown on **Exhibit E**, attached hereto and hereby made a part hereof. Effective on the first anniversary of this Agreement and on the anniversary date of each subsequent one year period, the annual fee will be increased at a rate based on the American Association of Railroad's (AAR) signal unit cost index. Such changes in the maintenance fee may be made by the Railroad by means of automatic adjustment in billing. The signal unit base for the annual fee may be re-determined by the Railroad at any time subsequent to the expiration of five (5) years following the date on which the annual rental was last determined or established. Such changes in the maintenance fee may be made by means of automatic adjustment in billing.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the Effective Date first herein written.

UNION PACIFIC RAILROAD COMPANY
(Federal Tax ID #94-6001323)

By: _____
Printed Name: _____
Title: _____

ATTEST:

CITY OF ROUND ROCK

[City Clerk] [County Clerk]

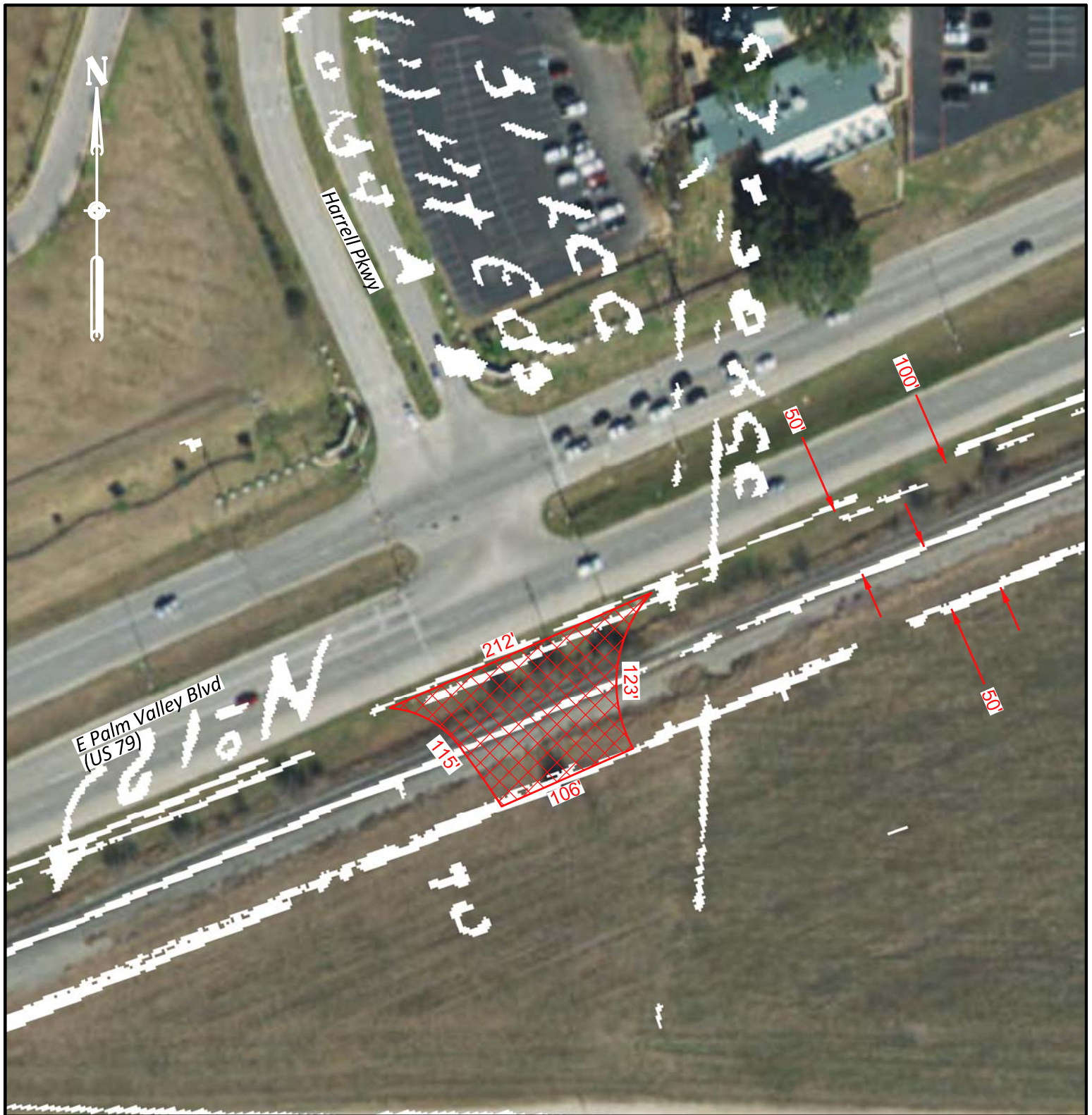
By: _____
Printed Name: _____
Title: _____

(Seal)


Pursuant to Resolution/Order No. _____
dated: _____, 20__ hereto attached

**EXHIBIT A
TO
PUBLIC HIGHWAY AT GRADE CROSSING AGREEMENT**

Exhibit A will be a print showing the Crossing Area (see Recitals)



LEGEND:

CROSSING AREA 

UPRRCO. R/W OUTLINED - - - - -

Crossing Area = 13,430 Sq. ft. = 0.30 Acres

NOTE: BEFORE YOU BEGIN ANY WORK, SEE AGREEMENT FOR FIBER OPTIC PROVISIONS.

EXHIBIT "A"

UNION PACIFIC RAILROAD COMPANY

ROUND ROCK, WILLIAMSON COUNTY, TX

M.P. 158.47 - AUSTIN SUB

MP-IGN V-7B / 10

SCALE: 1" = 100'

OFFICE OF REAL ESTATE

OMAHA, NEBRASKA DATE: 11/12/2018

AJM FILE: 3130-44

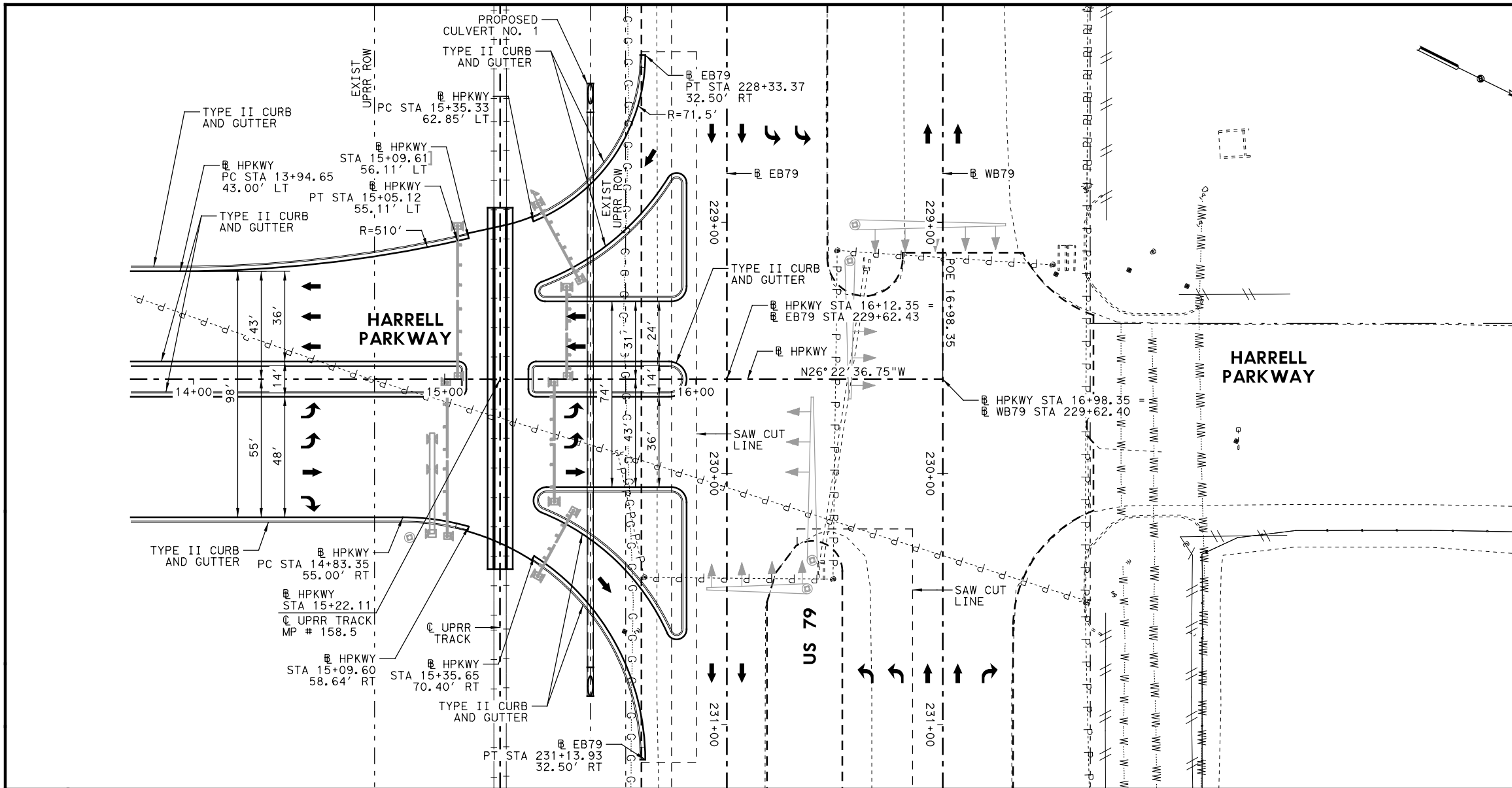
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FILENAME 0313044.DGN

SCAN
FILENAME 0313044_T246E010.TIF

**EXHIBIT A-1
TO
PUBLIC HIGHWAY AT GRADE CROSSING AGREEMENT**

Exhibit A-1 will be the plans showing the Crossing Area (see Recitals)

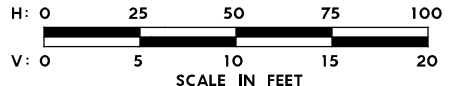
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LEGEND:

- EXISTING ROW
- EXISTING EASEMENT
- PAVEMENT WIDENING
- MILL AND OVERLAY
- REMOVE STAB BASE AND ASPH PAV
- REMOVE STAB BASE AND ASPH PAV (BY OTHERS)
- PROPOSED RAILROAD CROSSING GATE ARM
- PROPOSED RAILROAD CANTILEVER ARM
- PROPOSED TRAFFIC SIGNAL

- NOTES:**
- SEE "HORIZONTAL ALIGNMENT DATA" SHEETS FOR ALIGNMENT INFORMATION.
 - ALL DIMENSIONS AND OFFSETS ARE TO LIP OF GUTTER UNLESS OTHERWISE NOTED.
 - SEE "DRIVEWAY DETAILS" SHEET FOR DRIVEWAY INFORMATION NOT SHOWN.
 - SEE "INTERSECTION DETAILS" SHEETS FOR INTERSECTION AND MEDIAN INFORMATION NOT SHOWN.
 - THE UTILITY INFORMATION SHOWN IS PROVIDED BY OTHERS AND IS REPRESENTED AT THE REQUEST OF THE CITY OF ROUND ROCK. THIS INFORMATION WAS OBTAINED SOLELY FOR THE USE OF THE ENGINEERING DESIGN OF THE PROJECT. THE ACCURACY AND SUFFICIENCY OF THE INFORMATION SHOWN IS NOT GUARANTEED. THE CONTRACTOR SHALL FIELD VERIFY UTILITY LIMITS AND LOCATIONS PRIOR TO CONSTRUCTION.



SHEET 3 OF 15			
NO.	DATE	REVISION	APPROVED

PRELIMINARY
FOR INTERIM REVIEW ONLY. NOT FOR PERMITTING, BIDDING, OR CONSTRUCTION.
Prepared by or under the direct supervision of
GEORGE E. TILLET, P.E. 80310
2/24/2017

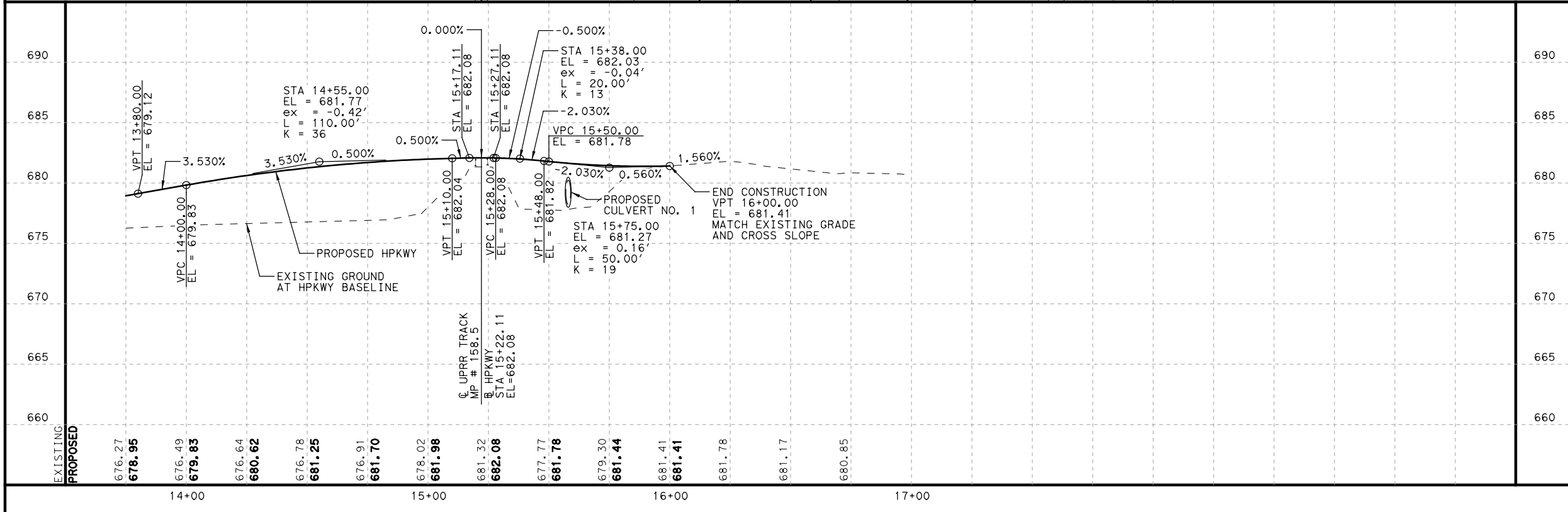
HDR HDR Engineering, Inc.
810 Hesters Crossing, Suite 120
Round Rock, Texas 78681
Texas Registered Engineering Firm F-754

ROUND ROCK, TEXAS THE CITY OF ROUND ROCK, TEXAS
PURPOSE: PASSION. PROSPERITY.

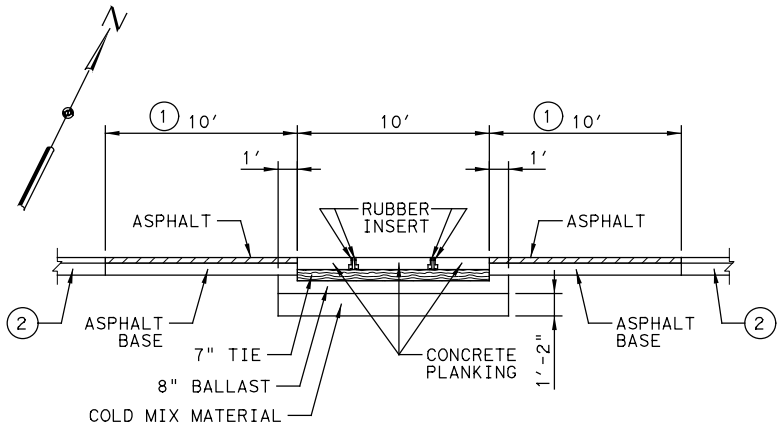
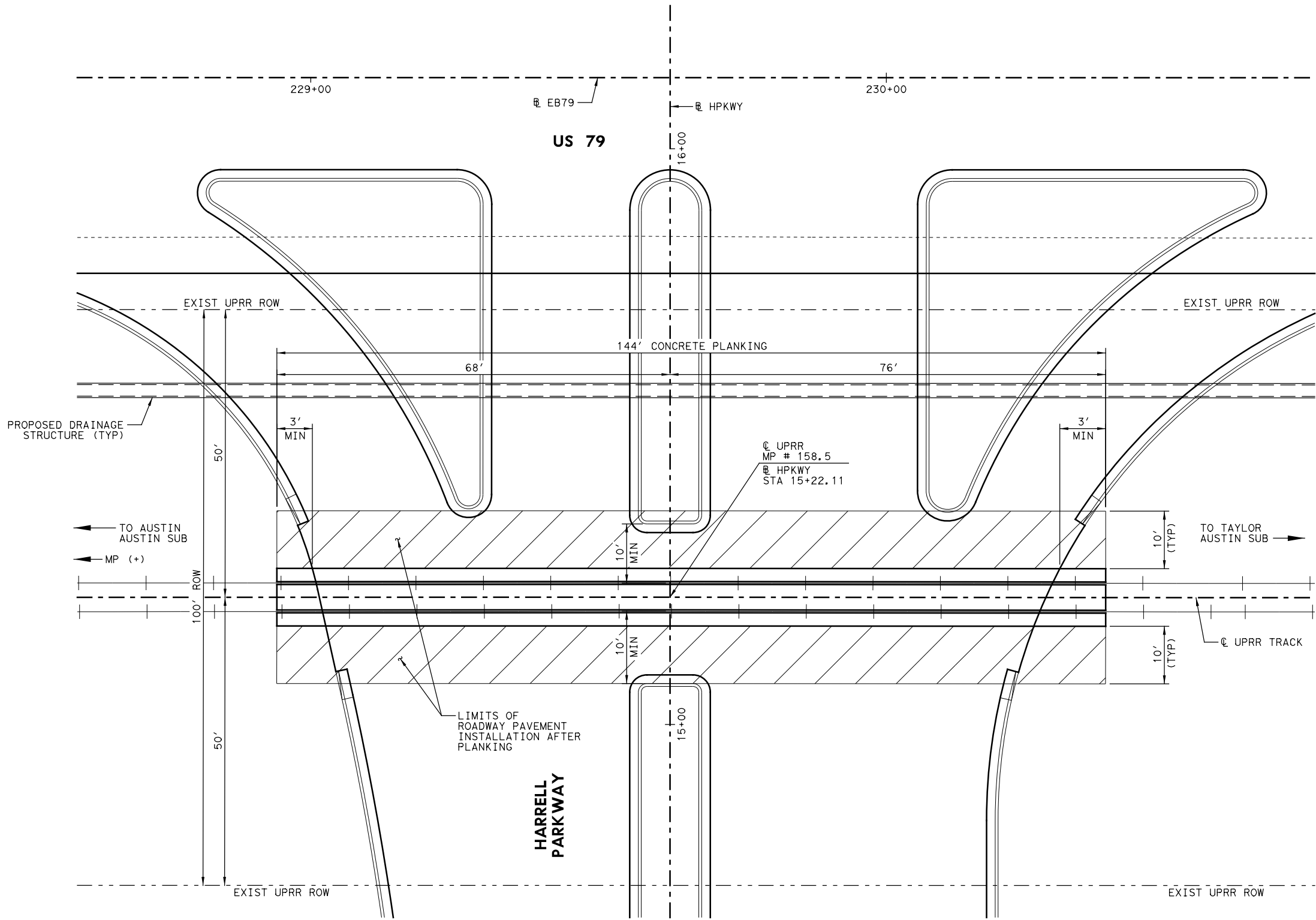
Texas Department of Transportation
© 2017

**HARRELL PARKWAY
EXHIBIT A
UPRR MP 158.5
AUSTIN SUBDIVISION
DOT #439683K
HARRELL PARKWAY
ROADWAY PLAN AND PROFILE**

DESIGN: JMB	FED. RD. DIV. NO. 6	FEDERAL AID PROJECT NO.	HIGHWAY NO.
CHECK: JDC	STATE TEXAS	DISTRICT AUS	SECTION WILLIAMSON
DRAWN: KDB	CONTROL	SECTION	JOB
CHECK: JMB			



PLOT DRIVER: TXDOT_PDF_BW.plt
USER: kberger
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TIME: 1:51:25 PM
SCALE: 1:20



TYPICAL RAILROAD SECTION

(FOR INSTALLATION OF PRECAST CONCRETE PLANKING AT RAILROAD GRADE CROSSING SEE RCD (1)-16 STANDARD SHEET FOR ADDITIONAL INFORMATION NOT SHOWN)

- 1 ROADWAY ASPHALT AND ASPHALT BASE IN THIS AREA SHALL BE PLACED IMMEDIATELY FOLLOWING INSTALLATION OF CONCRETE PLANKING.
- 2 ROADWAY ASPHALT AND ASPHALT BASE IN THIS AREA SHALL BE PLACED PRIOR TO REMOVAL OF EXISTING PLANKING.



SHEET 5 OF 15

NO.	DATE	REVISION	APPROVED
-----	------	----------	----------

PRELIMINARY
FOR INTERIM REVIEW ONLY. NOT FOR PERMITTING, BIDDING, OR CONSTRUCTION.
Prepared by or under the direct supervision of
GEORGE E. TILLET, P.E. 80310
2/24/2017



HDR Engineering, Inc.
810 Hesters Crossing, Suite 120
Round Rock, Texas 78681
Texas Registered Engineering Firm F-754



THE CITY OF ROUND ROCK, TEXAS



Texas Department of Transportation
© 2017

**HARRELL PARKWAY
EXHIBIT A
UPRR MP 158.5
AUSTIN SUBDIVISION
DOT #439683K
HARRELL PARKWAY
PLANKING LAYOUT**

DESIGN: JMB	FED. RD. DIV. NO. 6	FEDERAL AID PROJECT NO.	HIGHWAY NO.
CHECK: JDC	STATE TEXAS	SEE TITLE SHEET	HPKWAY
DRAWN: KDB	AUS CONTROL	WILLIAMSON	SHEET NO.
CHECK: JMB	SECTION	JOB	123

**EXHIBIT B
TO
PUBLIC HIGHWAY AT GRADE CROSSING AGREEMENT**

SECTION 1. CONDITIONS AND COVENANTS

A. The Railroad makes no covenant or warranty of title for quiet possession or against encumbrances. The Political Body shall not use or permit use of the Crossing Area for any purposes other than those described in this Agreement. Without limiting the foregoing, the Political Body shall not use or permit use of the Crossing Area for railroad purposes, or for gas, oil or gasoline pipe lines. Any lines constructed on the Railroad's property by or under authority of the Political Body for the purpose of conveying electric power or communications incidental to the Political Body's use of the property for highway purposes shall be constructed in accordance with specifications and requirements of the Railroad, and in such manner as not adversely to affect communication or signal lines of the Railroad or its licensees now or hereafter located upon said property. No nonparty shall be admitted by the Political Body to use or occupy any part of the Railroad's property without the Railroad's written consent. Nothing herein shall obligate the Railroad to give such consent.

B. The Railroad reserves the right to cross the Crossing Area with such railroad tracks as may be required for its convenience or purposes. In the event the Railroad shall place additional tracks upon the Crossing Area, the Political Body shall, at its sole cost and expense, modify the Roadway to conform with all tracks within the Crossing Area.

C. The right hereby granted is subject to any existing encumbrances and rights (whether public or private), recorded or unrecorded, and also to any renewals thereof. The Political Body shall not damage, destroy or interfere with the property or rights of nonparties in, upon or relating to the Railroad's property, unless the Political Body at its own expense settles with and obtains releases from such nonparties.

D. The Railroad reserves the right to use and to grant to others the right to use the Crossing Area for any purpose not inconsistent with the right hereby granted, including, but not by way of limitation, the right to construct, reconstruct, maintain, operate, repair, alter, renew and replace tracks, facilities and appurtenances on the property; and the right to cross the Crossing Area with all kinds of equipment.

E. So far as it lawfully may do so, the Political Body will assume, bear and pay all taxes and assessments of whatsoever nature or kind (whether general, local or special) levied or assessed upon or against the Crossing Area, excepting taxes levied upon and against the property as a component part of the Railroad's operating

property.

F. If any property or rights other than the right hereby granted are necessary for the construction, maintenance and use of the Roadway and its appurtenances, or for the performance of any work in connection with the Project, the Political Body will acquire all such other property and rights at its own expense and without expense to the Railroad.

SECTION 2. CONSTRUCTION OF ROADWAY

A. The Political Body, at its expense, will apply for and obtain all public authority required by law, ordinance, rule or regulation for the Project, and will furnish the Railroad upon request with satisfactory evidence that such authority has been obtained.

B. Except as may be otherwise specifically provided herein, the Political Body, at its expense, will furnish all necessary labor, material and equipment, and shall construct and complete the Roadway and all appurtenances thereof. The appurtenances shall include, without limitation, all necessary and proper highway warning devices (except those installed by the Railroad within its right of way) and all necessary drainage facilities, guard rails or barriers, and right of way fences between the Roadway and the railroad tracks. Upon completion of the Project, the Political Body shall remove from the Railroad's property all temporary structures and false work, and will leave the Crossing Area in a condition satisfactory to the Railroad.

C. All construction work of the Political Body upon the Railroad's property (including, but not limited to, construction of the Roadway and all appurtenances and all related and incidental work) shall be performed and completed in a manner satisfactory to the Assistant Vice President Engineering-Design of the Railroad or his authorized representative and in compliance with the Plans, and other guidelines furnished by the Railroad.

D. All construction work of the Political Body shall be performed diligently and completed within a reasonable time. No part of the Project shall be suspended, discontinued or unduly delayed without the Railroad's written consent, and subject to such reasonable conditions as the Railroad may specify. It is understood that the Railroad's tracks at and in the vicinity of the work will be in constant or frequent use during progress of the work and that movement or stoppage of trains, engines or cars may cause delays in the work of the Political Body. The Political Body hereby assumes the risk of any such delays and agrees that no claims for damages on account of any delay shall be made against the Railroad by the State and/or the Contractor.

SECTION 3. INJURY AND DAMAGE TO PROPERTY

If the Political Body, in the performance of any work contemplated by this Agreement or by the failure to do or perform anything for which the Political Body is responsible under the provisions of this Agreement, shall injure, damage or destroy any property of the Railroad or of any other person lawfully occupying or using the property of the Railroad, such property shall be replaced or repaired by the Political Body at the Political Body's own expense, or by the Railroad at the expense of the Political Body, and to the satisfaction of the Railroad's Assistant Vice President Engineering-Design.

SECTION 4. RAILROAD MAY USE CONTRACTORS TO PERFORM WORK

The Railroad may contract for the performance of any of its work by other than the Railroad forces. The Railroad shall notify the Political Body of the contract price within ninety (90) days after it is awarded. Unless the Railroad's work is to be performed on a fixed price basis, the Political Body shall reimburse the Railroad for the amount of the contract.

SECTION 5. MAINTENANCE AND REPAIRS

A. The Political Body shall, at its own sole expense, maintain, repair, and renew, or cause to be maintained, repaired and renewed, the entire Crossing Area and Roadway, except the portions between the track tie ends, which shall be maintained by and at the expense of the Railroad.

B. If, in the future, the Political Body elects to have the surfacing material between the track tie ends, or between tracks if there is more than one railroad track across the Crossing Area, replaced with paving or some surfacing material other than timber planking, the Railroad, at the Political Body's expense, shall install such replacement surfacing, and in the future, to the extent repair or replacement of the surfacing is necessitated by repair or rehabilitation of the Railroad's tracks through the Crossing Area, the Political Body shall bear the expense of such repairs or replacement.

SECTION 6. CHANGES IN GRADE

If at any time the Railroad shall elect, or be required by competent authority to, raise or lower the grade of all or any portion of the track(s) located within the Crossing Area, the Political Body shall, at its own expense, conform the Roadway to conform with the change of grade of the trackage.

SECTION 7. REARRANGEMENT OF WARNING DEVICES

If the change or rearrangement of any warning device installed hereunder is necessitated for public or Railroad convenience or on account of improvements for either the Railroad, highway or both, the parties will apportion the expense incidental

thereto between themselves by negotiation, agreement or by the order of a competent authority before the change or rearrangement is undertaken.

SECTION 8. SAFETY MEASURES; PROTECTION OF RAILROAD COMPANY OPERATIONS

It is understood and recognized that safety and continuity of the Railroad's operations and communications are of the utmost importance; and in order that the same may be adequately safeguarded, protected and assured, and in order that accidents may be prevented and avoided, it is agreed with respect to all of said work of the Political Body that the work will be performed in a safe manner and in conformity with the following standards:

A. **Definitions.** All references in this Agreement to the Political Body shall also include the Contractor and their respective officers, agents and employees, and others acting under its or their authority; and all references in this Agreement to work of the Political Body shall include work both within and outside of the Railroad's property.

B. **Entry on to Railroad's Property by Political Body.** If the Political Body's employees need to enter Railroad's property in order to perform an inspection of the Roadway, minor maintenance or other activities, the Political Body shall first provide at least ten (10) working days advance notice to the Railroad Representative. With respect to such entry on to Railroad's property, the Political Body, to the extent permitted by law, agrees to release, defend and indemnify the Railroad from and against any loss, damage, injury, liability, claim, cost or expense incurred by any person including, without limitation, the Political Body's employees, or damage to any property or equipment (collectively the "Loss") that arises from the presence or activities of Political Body's employees on Railroad's property, except to the extent that any Loss is caused by the sole direct negligence of Railroad.

C. **Flagging.**

(i) If the Political Body's employees need to enter Railroad's property as provided in Paragraph B above, the Political Body agrees to notify the Railroad Representative at least thirty (30) working days in advance of proposed performance of any work by Political Body in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such thirty (30) day notice, the Railroad Representative will determine and inform Political Body whether a flagman need be present and whether Political Body needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill

Political Body for such expenses incurred by Railroad. If Railroad performs any flagging, or other special protective or safety measures are performed by Railroad, Political Body agrees that Political Body is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

(ii) The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Political Body shall pay on the basis of the new rates and charges.

(iii) Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Political Body may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Political Body must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Political Body will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional thirty (30) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

D. **Compliance With Laws.** The Political Body shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work. The Political Body shall use only such methods as are consistent with safety, both as concerns the Political Body, the Political Body's agents and employees, the officers, agents, employees and property of the Railroad and the public in general. The Political Body (without limiting the generality of the foregoing) shall comply with all applicable state and federal occupational safety and health acts and regulations. All Federal

Railroad Administration regulations shall be followed when work is performed on the Railroad's premises. If any failure by the Political Body to comply with any such laws, regulations, and enactments, shall result in any fine, penalty, cost or charge being assessed, imposed or charged against the Railroad, the Political Body shall reimburse, and to the extent it may lawfully do so, indemnify the Railroad for any such fine, penalty, cost, or charge, including without limitation attorney's fees, court costs and expenses. The Political Body further agrees in the event of any such action, upon notice thereof being provided by the Railroad, to defend such action free of cost, charge, or expense to the Railroad.

E. **No Interference or Delays.** The Political Body shall not do, suffer or permit anything which will or may obstruct, endanger, interfere with, hinder or delay maintenance or operation of the Railroad's tracks or facilities, or any communication or signal lines, installations or any appurtenances thereof, or the operations of others lawfully occupying or using the Railroad's property or facilities.

F. **Supervision.** The Political Body, at its own expense, shall adequately police and supervise all work to be performed by the Political Body, and shall not inflict injury to persons or damage to property for the safety of whom or of which the Railroad may be responsible, or to property of the Railroad. The responsibility of the Political Body for safe conduct and adequate policing and supervision of the Project shall not be lessened or otherwise affected by the Railroad's approval of plans and specifications, or by the Railroad's collaboration in performance of any work, or by the presence at the work site of the Railroad's representatives, or by compliance by the Political Body with any requests or recommendations made by such representatives. If a representative of the Railroad is assigned to the Project, the Political Body will give due consideration to suggestions and recommendations made by such representative for the safety and protection of the Railroad's property and operations.

G. **Suspension of Work.** If at any time the Political Body's engineers or the Vice President-Engineering Services of the Railroad or their respective representatives shall be of the opinion that any work of the Political Body is being or is about to be done or prosecuted without due regard and precaution for safety and security, the Political Body shall immediately suspend the work until suitable, adequate and proper protective measures are adopted and provided.

H. **Removal of Debris.** The Political Body shall not cause, suffer or permit material or debris to be deposited or cast upon, or to slide or fall upon any property or facilities of the Railroad; and any such material and debris shall be promptly removed from the Railroad's property by the Political Body at the Political Body's own expense or by the Railroad at the expense of the Political Body. The Political Body shall not cause, suffer or permit any snow to be plowed or cast upon the Railroad's property during snow removal from the Crossing Area.

I. **Explosives.** The Political Body shall not discharge any explosives on or in the vicinity of the Railroad's property without the prior consent of the Railroad's Vice

President-Engineering Services, which shall not be given if, in the sole discretion of the Railroad's Vice President-Engineering Services, such discharge would be dangerous or would interfere with the Railroad's property or facilities. For the purposes hereof, the "vicinity of the Railroad's property" shall be deemed to be any place on the Railroad's property or in such close proximity to the Railroad's property that the discharge of explosives could cause injury to the Railroad's employees or other persons, or cause damage to or interference with the facilities or operations on the Railroad's property. The Railroad reserves the right to impose such conditions, restrictions or limitations on the transportation, handling, storage, security and use of explosives as the Railroad, in the Railroad's sole discretion, may deem to be necessary, desirable or appropriate.

J. **Excavation.** The Political Body shall not excavate from existing slopes nor construct new slopes which are excessive and may create hazards of slides or falling rock, or impair or endanger the clearance between existing or new slopes and the tracks of the Railroad. The Political Body shall not do or cause to be done any work which will or may disturb the stability of any area or adversely affect the Railroad's tracks or facilities. The Political Body, at its own expense, shall install and maintain adequate shoring and cribbing for all excavation and/or trenching performed by the Political Body in connection with construction, maintenance or other work. The shoring and cribbing shall be constructed and maintained with materials and in a manner approved by the Railroad's Assistant Vice President Engineering - Design to withstand all stresses likely to be encountered, including any stresses resulting from vibrations caused by the Railroad's operations in the vicinity.

K. **Drainage.** The Political Body, at the Political Body's own expense, shall provide and maintain suitable facilities for draining the Roadway and its appurtenances, and shall not suffer or permit drainage water therefrom to flow or collect upon property of the Railroad. The Political Body, at the Political Body's own expense, shall provide adequate passageway for the waters of any streams, bodies of water and drainage facilities (either natural or artificial, and including water from the Railroad's culvert and drainage facilities), so that said waters may not, because of any facilities or work of the Political Body, be impeded, obstructed, diverted or caused to back up, overflow or damage the property of the Railroad or any part thereof, or property of others. The Political Body shall not obstruct or interfere with existing ditches or drainage facilities.

L. **Notice.** Before commencing any work, the Political Body shall provide the advance notice to the Railroad that is required under the Contractor's Right of Entry Agreement.

M. **Fiber Optic Cables.** Fiber optic cable systems may be buried on the Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Political Body shall telephone the Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except

holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on the Railroad's premises to be used by the Political Body. If it is, Political Body will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on the Railroad's premises.

SECTION 9. INTERIM WARNING DEVICES

If at anytime it is determined by a competent authority, by the Political Body, or by agreement between the parties, that new or improved train activated warning devices should be installed at the Crossing Area, the Political Body shall install adequate temporary warning devices or signs and impose appropriate vehicular control measures to protect the motoring public until the new or improved devices have been installed.

SECTION 10. OTHER RAILROADS

All protective and indemnifying provisions of this Agreement shall inure to the benefit of the Railroad and any other railroad company lawfully using the Railroad's property or facilities.

SECTION 11. BOOKS AND RECORDS

The books, papers, records and accounts of Railroad, so far as they relate to the items of expense for the materials to be provided by Railroad under this Project, or are associated with the work to be performed by Railroad under this Project, shall be open to inspection and audit at Railroad's offices in Omaha, Nebraska, during normal business hours by the agents and authorized representatives of Political Body for a period of three (3) years following the date of Railroad's last billing sent to Political Body.

SECTION 12. REMEDIES FOR BREACH OR NONUSE

A. If the Political Body shall fail, refuse or neglect to perform and abide by the terms of this Agreement, the Railroad, in addition to any other rights and remedies, may perform any work which in the judgment of the Railroad is necessary to place the Roadway and appurtenances in such condition as will not menace, endanger or interfere with the Railroad's facilities or operations or jeopardize the Railroad's employees; and the Political Body will reimburse the Railroad for the expenses thereof.

B. Nonuse by the Political Body of the Crossing Area for public highway purposes continuing at any time for a period of eighteen (18) months shall, at the option of the Railroad, work a termination of this Agreement and of all rights of the Political Body hereunder.

C. The Political Body will surrender peaceable possession of the Crossing Area and Roadway upon termination of this Agreement. Termination of this Agreement shall not affect any rights, obligations or liabilities of the parties, accrued or otherwise, which may have arisen prior to termination.

SECTION 13. MODIFICATION - ENTIRE AGREEMENT

No waiver, modification or amendment of this Agreement shall be of any force or effect unless made in writing, signed by the Political Body and the Railroad and specifying with particularity the nature and extent of such waiver, modification or amendment. Any waiver by the Railroad of any default by the Political Body shall not affect or impair any right arising from any subsequent default. This Agreement and Exhibits attached hereto and made a part hereof constitute the entire understanding between the Political Body and the Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work or any part thereof.

EXHIBIT C
TO
PUBLIC HIGHWAY AT GRADE CROSSING AGREEMENT

Exhibit C (if applicable) will be Railroad's Material and Force Agreement Estimate.

Material And Force Account Estimate

CITY OF ROUND ROCK

Estimate Creation Date: 7/9/2018 Number: 118044 Version: 1

Estimate Good Until 06/04/19

Location: AUSTIN SUB, SIMN, 93.6-113.67

Buy America: Yes

Description of Work: ROUND ROCK, TX HARRELL PARKWAY MP 158.47 AUSTIN SUBDIVISION DOT#972310C
WO#39754 PID#102107 100% RECOLLECTABLE

COMMENTS	Description	QTY	UOM	Unit Cost	LABOR	MATERIAL	TOTAL	UP 00%	Agncy 100%
SIGNAL									
	Xing - 1 Trk CWE w/Four Quad Gates	1	EA	192,474.00	67,200	125,274	192,474	0	192,474
	Xing - Track Card (Main and Stand-by) New Cable	1	EA	12,889.00	6,000	6,889	12,889	0	12,889
	Xing - Preemption Circuit (Existing Location)	1	LS	7,726.00	4,800	2,926	7,726	0	7,726
	Xing - Add Gates Existing Location (pair)	1	EA	58,483.00	26,000	32,483	58,483	0	58,483
	Xing - Sidelight	1	EA	907.00	0	907	907	0	907
	Xing - Cantilever Mast <37' Cant	1	EA	23,613.00	18,750	4,863	23,613	0	23,613
	Xing - Cantilever Arm <41'	34	LF	767.00	0	26,078	26,078	0	26,078
MP 159.20	Xing - 1 Trk Remote CWE and House	1	EA	54,337.00	14,400	39,937	54,337	0	54,337
	Xing - Dax Cable 1000'	6	EA	6,440.00	24,000	14,640	38,640	0	38,640
	Xing - IXS Track Circuit	1	EA	14,951.00	5,536	9,415	14,951	0	14,951
	Xing - Meter Service	1	LS	15,000.00	0	15,000	15,000	0	15,000
	Xing - Fill/Rock/Gravel	1	LS	20,000.00	0	20,000	20,000	0	20,000
	Xing - Boring	1	LS	10,000.00	0	10,000	10,000	0	10,000
	Xing - Contract Services for Preempt Cutover	1	LS	20,000.00	0	20,000	20,000	0	20,000
SIG FED W/ 190.55%	Xing - Labor Additive	1	LS	329,926.00	329,926	0	329,926	0	329,926
	Xing - IJ	1	PR	9,000.00	4,498	4,502	9,000	0	9,000
TRK FED W/ 233.58%	Xing - Labor Additive	1	LS	10,506.00	10,506	0	10,506	0	10,506
	Xing - Engineering Design	1	LS	14,924.00	14,924	0	14,924	0	14,924
Sub-Total =					526,540	332,914	859,454	0	859,454

Totals = 526,540 332,914 859,454 0 859,454

Grand Total = \$859,454

This is a preliminary estimate, intended to provide a ballpark cost to determine whether a proposed project warrants further study. This estimate is not to be used for budget authority. Quantities and costs are estimated using readily available information and experience with similar projects. Site conditions and changes in project scope and design may result in significant cost variance.

DATE: 2018-10-05

ESTIMATE OF MATERIAL AND FORCE ACCOUNT WORK
BY THE
UNION PACIFIC RAILROAD

THIS ESTIMATE GOOD FOR 6 MONTHS EXPIRATION DATE IS :2019-04-05

DESCRIPTION OF WORK:

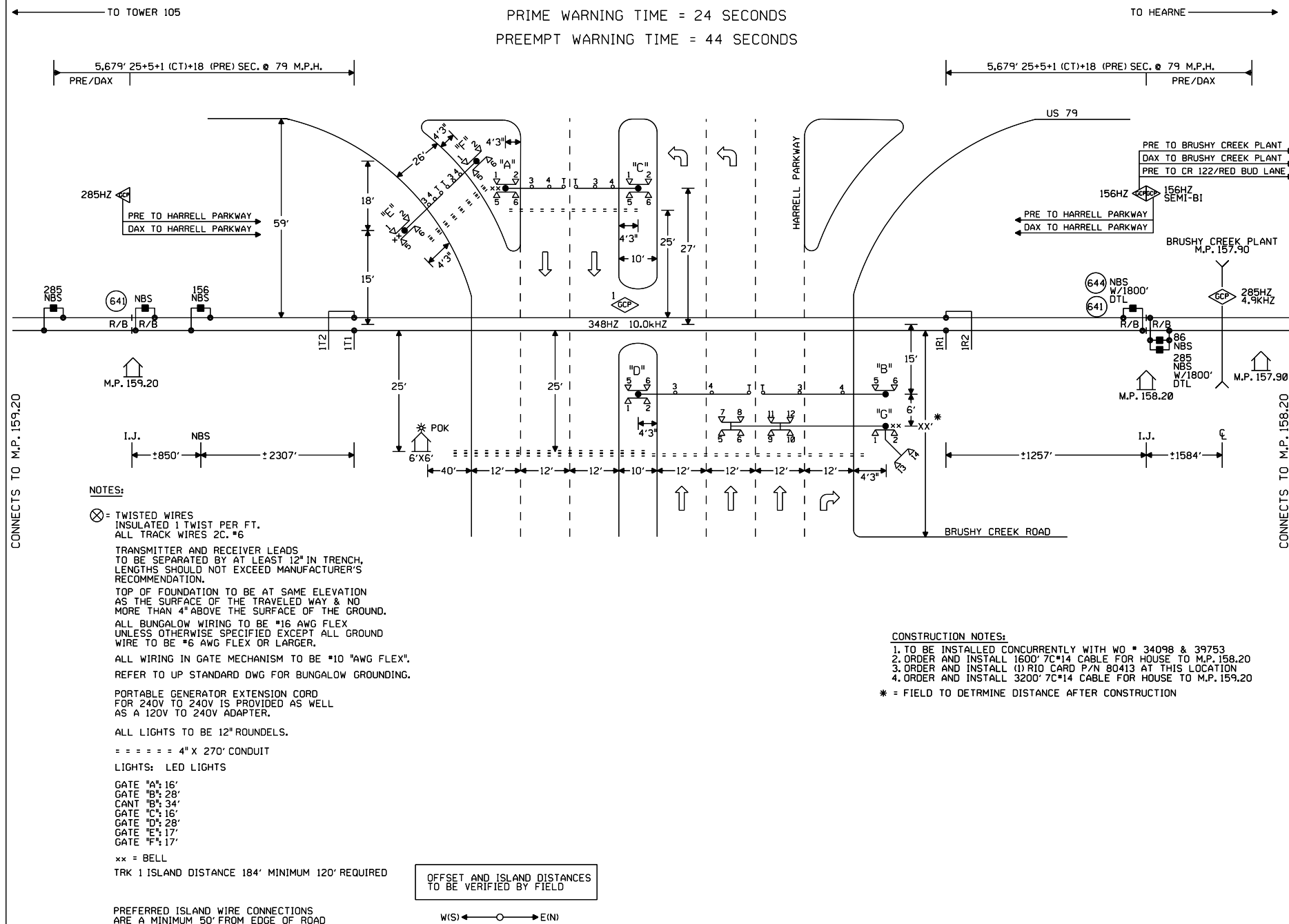
ROUND ROCK, TX / HARRELL PARKWAY / DOT#972310C-2 / AUSTIN SUB /
MP 158.47

INSTALL NEW 144' CROSSING SURFACE INCLUDING TIE RAIL AND OTM
PROJECT WAS BUILT USING FED ADDITIVE W/ OVERHEAD AND INDIRECT 234%
UPRR WILL BE REIMBURSED FOR 100% OF COST TO REPLACE THE CROSSING SURFACE

PID: 104275 AWO: MP, SUBDIV: 158.47, AUSTIN
SERVICE UNIT: 12 CITY: ROUND ROCK STATE: TX

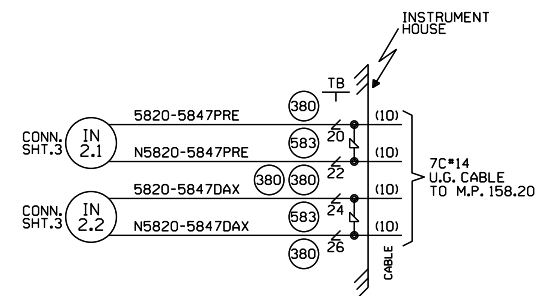
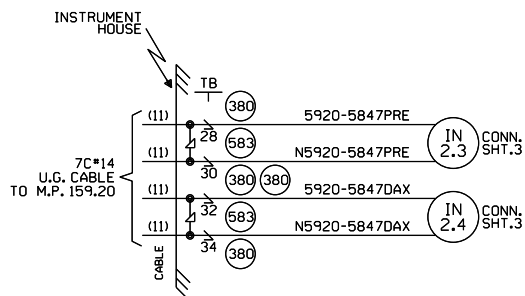
DESCRIPTION	QTY	UNIT	LABOR	MATERIAL	RECOLL	UPRR	TOTAL
-----	---	----	-----	-----	-----	-----	-----
ENGINEERING WORK							
ENGINEERING			6820		6820		6820
LABOR ADDITIVE 234%			15961		15961		15961
TOTAL ENGINEERING			22781		22781		22781
SIGNAL WORK							
LABOR ADDITIVE 234%			1259		1259		1259
SIGNAL			640	5	645		645
TOTAL SIGNAL			1899	5	1904		1904
TRACK & SURFACE WORK							
BALAST	4.00	CL	2963	4009	6972		6972
BILL PREP FEE				900	900		900
CONTRACT COSTS				65000	65000		65000
ENVIRONMENTAL PERMIT				10	10		10
FOREIGN LINE FREIGHT				2306	2306		2306
HOMELINE FREIGHT				900	900		900
LABOR ADDITIVE 234%			45350		45350		45350
MATL STORE EXPENSE				78	78		78
OTM			2174	2228	4402		4402
RAIL	320.00	LF	7180	5561	12741		12741
RDXING	144.00	TF	2224	23438	25662		25662
SALES TAX				1860	1860		1860
TRK-SURF, LIN			2134		2134		2134
WELD			2681	378	3059		3059
XTIE	101.00	EA	9158	10946	20104		20104
TOTAL TRACK & SURFACE			73864	117614	191478		191478
LABOR/MATERIAL EXPENSE			98544	117619	-----		
RECOLLECTIBLE/UPRR EXPENSE					216163	0	-----
ESTIMATED PROJECT COST							216163

THE ABOVE FIGURES ARE ESTIMATES ONLY AND SUBJECT TO FLUCTUATION. IN THE EVENT OF AN INCREASE OR DECREASE IN THE COST OR QUANTITY OF MATERIAL OR LABOR REQUIRED, UPRR WILL BILL FOR ACTUAL CONSTRUCTION COSTS AT THE CURRENT EFFECTIVE RATE.



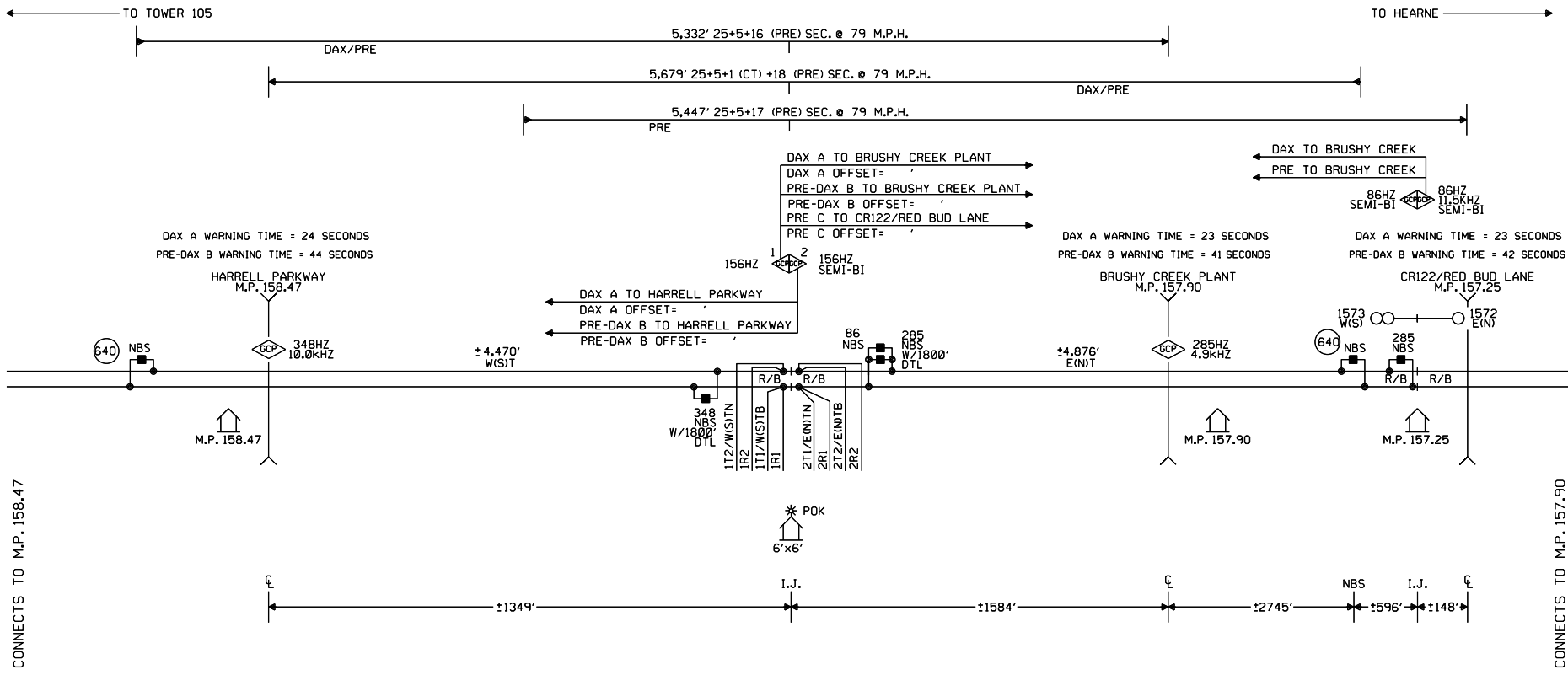
NEW SHEET

Designed: 04/18/18				MODIFICATION LEVEL		CIRCUIT MODIFICATIONS ARE NOT TO BE MADE WITHOUT AUTHORITY FROM THE OFFICE OF SIGNAL DESIGN	Date: 04/18/18	UNION PACIFIC RAILROAD		Sh.: 1
INSTALL FLASHERS W/GATES, CWT & PREEMPT HARRELL PARKWAY M.P. 158.47				Q. A. LAST LEVEL CHECKED	DV		Des: XRL	ROUND ROCK, TEXAS		DOT: 972310C
Rec'd: 39754 /TLC 151 / / XRL/KPH				LAST LEVEL MOD THIS TYPICAL	DV		Chk: TLC	HARRELL PARKWAY		MP: 158.47
				LAST LEVEL BY DESIGNER	DV		AFE: 39754	AUSTIN SUBDIVISION		ID: 180415847.1X
				CHANGED FROM TYPICAL?	Y			Office of AVP Engineering - Signal		
				REV. 09.23.16 4K 40TYP.1				Omaha, Nebraska		



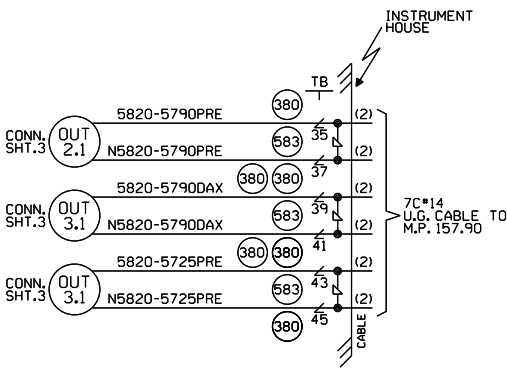
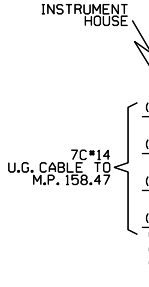
CABLE NO. 10 7C*14 U.G.B.T. HOUSE TO M.P. 158.20
CABLE NO. 11 7C*14 U.G.B.T. HOUSE TO M.P. 159.20
CABLE NO. 12 U.G.B.T. HOUSE TO TRAFFIC CONTROLLER

NEW SHEET



NOTES:

- ⊗ = TWISTED WIRES
- ALL TRACK WIRES 2C. #6
- INSULATED 1 TWIST PER FT.
- TRANSMITTER AND RECEIVER LEADS
- TO BE SEPARATED BY AT LEAST 12" IN TRENCH,
- LENGTHS SHOULD NOT EXCEED MANUFACTURER'S
- RECOMMENDATION.
- ALL BUNGALOW WIRING TO BE #16 AWG FLEX
- UNLESS OTHERWISE SPECIFIED EXCEPT ALL GROUND
- WIRE TO BE #6 AWG FLEX OR LARGER.
- REFER TO UP STANDARD DWG. FOR BUNGALOW
- GROUNDING.
- PORTABLE GENERATOR EXTENSION CORD
- FOR 240V TO 240V IS PROVIDED AS WELL
- AS A 120V TO 240V ADAPTER.



OFFSET AND DISTANCES
TO BE VERIFIED BY FIELD

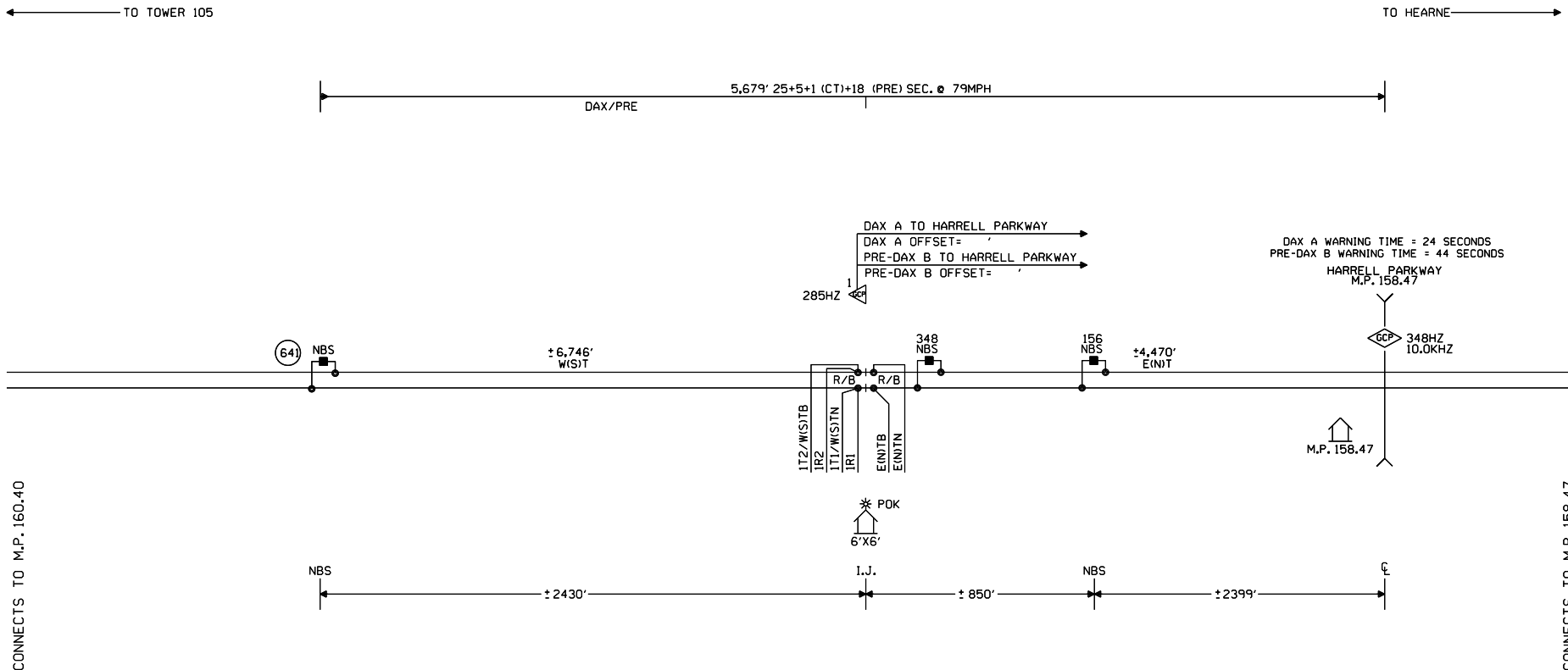
CONSTRUCTION NOTES:

1. ORDER AND INSTALL (1) TAB 729 86HZ TRACK FILTER AT THIS LOCATION
2. ORDER AND INSTALL (2) TAB 729 156HZ TRACK FILTER AT THIS LOCATION
3. ORDER AND INSTALL (1) TAB 503 ECS AT THIS LOCATION
4. ORDER AND INSTALL (1) TAB 692 6TRK GCP AT THIS LOCATION
5. ORDER AND INSTALL (1) RIO CARD P/N 80413 AT THIS LOCATION

CABLE TABULATION

CABLE NO. 1 7C*14 U.G.B.T. HOUSE TO M.P. 158.47
CABLE NO. 2 7C*14 U.G.B.T. HOUSE TO M.P. 157.90

Designed: 04/18/18		Designed: 02/14/18		MODIFICATION LEVEL		CIRCUIT MODIFICATIONS ARE NOT TO BE MADE WITHOUT AUTHORITY FROM THE OFFICE OF SIGNAL DESIGN	Date: 02/14/18	NEW SHEET	
INSTALL FLASHERS W/GATES, CWT & PREEMPT HARRELL PARKWAY M.P. 158.47		INSTALL FLASHERS W/GATES, CWT & PREEMPT BRUSHY CREEK PLANT M.P. 157.90		Q. A. LAST LEVEL CHECKED	DV				
Rec'd: 3/9/24 IS: / XRL/KPM		Rec'd: 3/9/23 IS: / XRL/KPM		LAST LEVEL MOD THIS TYPICAL	DV				
Rec'd: 3/9/24 IS: / XRL/KPM		Rec'd: 3/9/23 IS: / XRL/KPM		LAST LEVEL BY DESIGNER	DV				
CHANGED FROM TYPICAL?		CHANGED FROM TYPICAL?		Y		AFE: 39753	Office of AVP Engineering - Signal	ID: 180415820.IX	



NOTES:

- ⊗ = TWISTED WIRES
- ALL TRACK WIRES 2C. #6
- INSULATED 1 TWIST PER FT.
- TRANSMITTER AND RECEIVER LEADS
- TO BE SEPARATED BY AT LEAST 12" IN TRENCH,
- LENGTHS SHOULD NOT EXCEED MANUFACTURER'S
- RECOMMENDATION.
- ALL BUNGALOW WIRING TO BE #16 AWG FLEX
- UNLESS OTHERWISE SPECIFIED EXCEPT ALL GROUND
- WIRE TO BE #6 AWG FLEX OR LARGER.
- REFER TO UP STANDARD DWG. FOR BUNGALOW
- GROUNDING.
- PORTABLE GENERATOR EXTENSION CORD
- FOR 240V TO 240V IS PROVIDED AS WELL
- AS A 120V TO 240V ADAPTER.

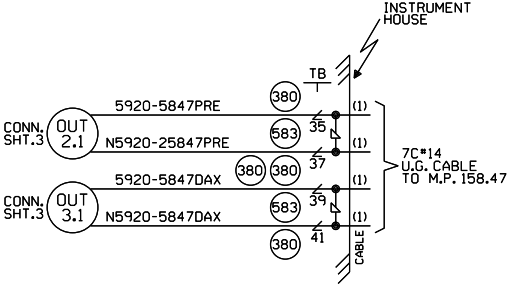
- CONSTRUCTION NOTES:
1. TO BE INSTALLED CONCURRENTLY WITH WO # 34098 & 39753
 2. ORDER AND INSTALL (1) TAB 729 156HZ TRACK FILTER AT THIS LOCATION
 3. ORDER AND INSTALL (1) TAB 503 EC5 AT THIS LOCATION

OFFSET AND DISTANCES
TO BE VERIFIED BY FIELD

W(S) ← ○ → E(N)

CABLE TABULATION

CABLE NO. 1 7C#14 U.G.B.T. HOUSE TO M.P. 158.47



				Designed: 04/18/18		MODIFICATION LEVEL		CIRCUIT MODIFICATIONS ARE NOT TO BE MADE WITHOUT AUTHORITY FROM THE OFFICE OF SIGNAL DESIGN	Date: 04/18/18		UNION PACIFIC RAILROAD		Sh: 1	
				INSTALL FLASHERS W/GATES, CWT & PREEMPT HARRELL PARKWAY M.P. 158.47		D. A. LAST LEVEL CHECKED			Des: XRL		ROUND ROCK, TEXAS		DOT 000000R	
						LAST LEVEL MOD THIS TYPICAL			Chk: TLC		REMOTE REPEATER		MP: 159.20	
						LAST LEVEL BY DESIGNER			AFE: 39754		AUSTIN SUBDIVISION		ID: 180415920.1X	
				Rec: 39754		CHANGED FROM TYPICAL?			Office of AVP Engineering - Signal		Omaha, Nebraska			
				/TLC /KPH		Y								

EXHIBIT D
TO
PUBLIC HIGHWAY AT-GRADE CROSSING AGREEMENT

CONTRACTOR'S
RIGHT OF ENTRY AGREEMENT

THIS AGREEMENT is made and entered into as of the _____ day of _____, 20_____, by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("Railroad"); and _____, a _____ corporation ("Contractor").

RECITALS:

Contractor has been hired by _____ to perform work relating to _____

_____ (the "work"), with all or a portion of such work to be performed on property of Railroad in the vicinity of Railroad's Milepost _____ on Railroad's _____ [Subdivision] [Branch] [at or near DOT No. _____] located at or near _____, in _____ County, State of _____, as such location is in the general location shown on the print marked **Exhibit A**, attached hereto and hereby made a part hereof, which work is the subject of a contract dated _____ between Railroad and _____.

Railroad is willing to permit Contractor to perform the work described above at the location described above subject to the terms and conditions contained in this Agreement

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between Railroad and Contractor, as follows:

ARTICLE 1 - DEFINITION OF CONTRACTOR.

For purposes of this Agreement, all references in this agreement to Contractor shall include Contractor's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority.

ARTICLE 2 - RIGHT GRANTED; PURPOSE.

Railroad hereby grants to Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the property described in the Recitals for the purpose of performing the work described in the Recitals above. The right herein granted to Contractor is limited to those portions of Railroad's property specifically described herein, or as designated by the Railroad Representative named in Article 4.

ARTICLE 3 - TERMS AND CONDITIONS CONTAINED IN EXHIBITS B, C AND D.

The terms and conditions contained in **Exhibit B**, **Exhibit C** and **Exhibit D**, attached hereto, are hereby made a part of this Agreement.

ARTICLE 4 - ALL EXPENSES TO BE BORNE BY CONTRACTOR; RAILROAD REPRESENTATIVE.

A. Contractor shall bear any and all costs and expenses associated with any work performed by Contractor, or any costs or expenses incurred by Railroad relating to this Agreement.

B. Contractor shall coordinate all of its work with the following Railroad representative or his or her duly authorized representative (the "Railroad Representative"):

C. Contractor, at its own expense, shall adequately police and supervise all work to be performed by Contractor and shall ensure that such work is performed in a safe manner as set forth in Section 7 of **Exhibit B**. The responsibility of Contractor for safe conduct and adequate policing and supervision of Contractor's work shall not be lessened or otherwise affected by Railroad's approval of plans and specifications involving the work, or by Railroad's collaboration in performance of any work, or by the presence at the work site of a Railroad Representative, or by compliance by Contractor with any requests or recommendations made by Railroad Representative.

ARTICLE 5 - SCHEDULE OF WORK ON A MONTHLY BASIS.

The Contractor, at its expense, shall provide on a monthly basis a detailed schedule of work to the Railroad Representative named in Article 4B above. The reports shall start at the execution of this Agreement and continue until this Agreement is terminated as provided in this Agreement or until the Contractor has completed all work on Railroad's property.

ARTICLE 6 - TERM; TERMINATION.

A. The grant of right herein made to Contractor shall commence on the date of this Agreement, and continue until _____, unless sooner terminated as herein provided, or at such time as Contractor has completed its work on Railroad's property, whichever is earlier. Contractor agrees to notify the Railroad Representative in writing when it has completed its work on Railroad's property.

B. This Agreement may be terminated by either party on ten (10) days written notice to the other party.

ARTICLE 7 - CERTIFICATE OF INSURANCE.

A. Before commencing any work, Contractor will provide Railroad with the (i) insurance binders, policies, certificates and endorsements set forth in **Exhibit C** of this Agreement, and (ii) the insurance endorsements obtained by each subcontractor as required under Section 12 of **Exhibit B** of this Agreement.

B. All insurance correspondence, binders, policies, certificates and endorsements shall be sent to:

Union Pacific Railroad Company

[Insert mailing address]

Attn: _____
Folder No. _____

ARTICLE 8 - DISMISSAL OF CONTRACTOR'S EMPLOYEE.

At the request of Railroad, Contractor shall remove from Railroad's property any employee of Contractor who fails to conform to the instructions of the Railroad Representative in connection with the work on Railroad's property, and any right of Contractor shall be suspended until such removal has occurred. Contractor shall indemnify Railroad against any claims arising from the removal of any such employee from Railroad's property.

ARTICLE 9- ADMINISTRATIVE FEE.

Upon the execution and delivery of this Agreement, Contractor shall pay to Railroad _____ Dollars (\$_____) as reimbursement for clerical, administrative and handling expenses in connection with the processing of this Agreement.

ARTICLE 10 - CROSSINGS; COMPLIANCE WITH MUTCD AND FRA GUIDELINES.

A. No additional vehicular crossings (including temporary haul roads) or pedestrian crossings over Railroad's trackage shall be installed or used by Contractor without the prior written permission of Railroad.

B. Any permanent or temporary changes, including temporary traffic control, to crossings must conform to the Manual of Uniform Traffic Control Devices (MUTCD) and any applicable Federal Railroad Administration rules, regulations and guidelines, and must be reviewed by the Railroad prior to any changes being implemented. In the event the Railroad is found to be out of compliance with federal safety regulations due to the Contractor's modifications, negligence, or any other reason arising from the Contractor's presence on the Railroad's property, the Contractor agrees to assume liability for any civil penalties imposed upon the Railroad for such noncompliance.

ARTICLE 11.- EXPLOSIVES.

Explosives or other highly flammable substances shall not be stored or used on Railroad's property without the prior written approval of Railroad.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement in duplicate as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

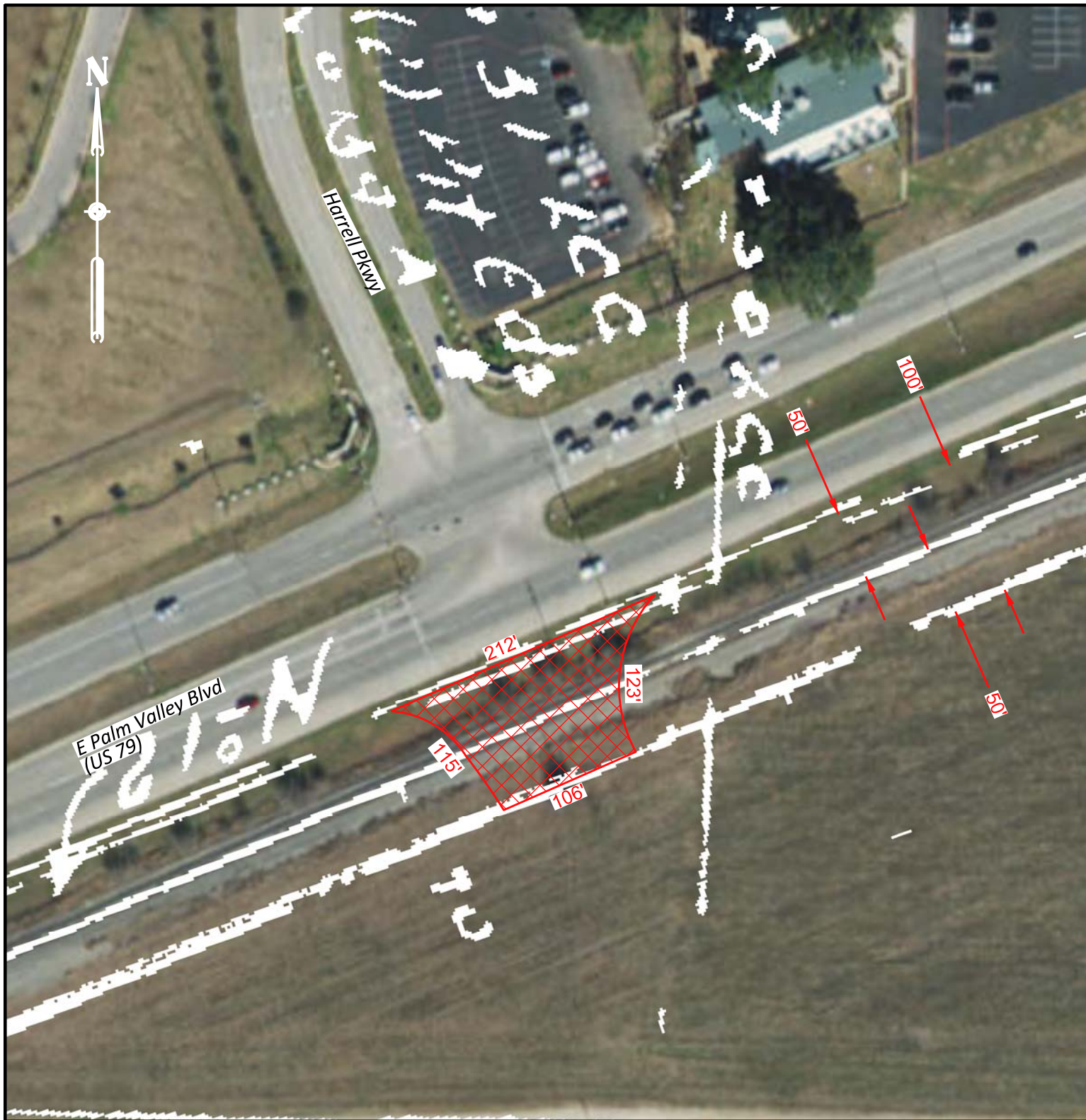
By: _____
Title: _____

(Name of Contractor)


By: _____
Title: _____

EXHIBIT A

Exhibit A will be a print showing the general location of the work site.



LEGEND:

CROSSING AREA 

UPRRCO. R/W OUTLINED - - - - -

Crossing Area = 13,430 Sq. ft. = 0.30 Acres

NOTE: BEFORE YOU BEGIN ANY WORK, SEE
AGREEMENT FOR FIBER OPTIC PROVISIONS.

EXHIBIT "A"

UNION PACIFIC RAILROAD COMPANY

ROUND ROCK, WILLIAMSON COUNTY, TX

M.P. 158.47 - AUSTIN SUB

MP-IGN V-7B / 10

SCALE: 1" = 100'

OFFICE OF REAL ESTATE

OMAHA, NEBRASKA DATE: 11/12/2018

AJM FILE: 3130-44

CADD
FILENAME 0313044.DGN

SCAN
FILENAME 0313044_T246E010.TIF

EXHIBIT B
TO
CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

Section 1. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.

A. Contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of Contractor commencing its work and at least thirty (30) working days in advance of proposed performance of any work by Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such thirty (30)-day notice, the Railroad Representative will determine and inform Contractor whether a flagman need be present and whether Contractor needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill Contractor for such expenses incurred by Railroad, unless Railroad and a federal, state or local governmental entity have agreed that Railroad is to bill such expenses to the federal, state or local governmental entity. If Railroad will be sending the bills to Contractor, Contractor shall pay such bills within thirty (30) days of Contractor's receipt of billing. If Railroad performs any flagging, or other special protective or safety measures are performed by Railroad, Contractor agrees that Contractor is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

B. The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Contractor (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

C. Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Contractor may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Contractor must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Contractor will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional thirty (30) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED

A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be

freely done at any time or times by Railroad without liability to Contractor or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (whether recorded or unrecorded and including those in favor of licensees and lessees of Railroad's property, and others) and the right of Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

Section 3. NO INTERFERENCE WITH OPERATIONS OF RAILROAD AND ITS TENANTS.

A. Contractor shall conduct its operations so as not to interfere with the continuous and uninterrupted use and operation of the railroad tracks and property of Railroad, including without limitation, the operations of Railroad's lessees, licensees or others, unless specifically authorized in advance by the Railroad Representative. Nothing shall be done or permitted to be done by Contractor at any time that would in any manner impair the safety of such operations. When not in use, Contractor's machinery and materials shall be kept at least fifty (50) feet from the centerline of Railroad's nearest track, and there shall be no vehicular crossings of Railroad's tracks except at existing open public crossings.

B. Operations of Railroad and work performed by Railroad personnel and delays in the work to be performed by Contractor caused by such railroad operations and work are expected by Contractor, and Contractor agrees that Railroad shall have no liability to Contractor, or any other person or entity for any such delays. The Contractor shall coordinate its activities with those of Railroad and third parties so as to avoid interference with railroad operations. The safe operation of Railroad train movements and other activities by Railroad takes precedence over any work to be performed by Contractor.

Section 4. LIENS.

Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of Railroad for any such work performed. Contractor shall indemnify and hold harmless Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished. If Contractor fails to promptly cause any lien to be released of record, Railroad may, at its election, discharge the lien or claim of lien at Contractor's expense.

Section 5. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

A. Fiber optic cable systems may be buried on Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall telephone Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on Railroad's property to be used by Contractor. If it is, Contractor will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, for relocation or other protection of the fiber optic cable. Contractor shall not commence any work until all such protection or relocation (if applicable) has been accomplished.

B. In addition to other indemnity provisions in this Agreement, Contractor shall indemnify, defend and hold Railroad harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of any act or omission of Contractor, its agents and/or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on Railroad's property, and/or (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Railroad's property. Contractor shall not have or seek recourse against Railroad for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Railroad's property or a customer or user of services of the fiber optic cable on Railroad's property.

Section 6. PERMITS - COMPLIANCE WITH LAWS.

In the prosecution of the work covered by this Agreement, Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

Section 7. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work performed by Contractor. Contractor shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. Contractor shall at a minimum comply with Railroad's safety standards listed in **Exhibit D**, hereto attached, to ensure uniformity with the safety standards followed by Railroad's own forces. As a part of Contractor's safety responsibilities, Contractor shall notify Railroad if Contractor determines that any of Railroad's safety standards are contrary to good safety practices. Contractor shall furnish copies of **Exhibit D** to each of its employees before they enter the job site.

B. Without limitation of the provisions of paragraph A above, Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

C. Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. Contractor shall promptly notify Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. Contractor shall have a nondelegable duty to control its employees while they are on the job site or any other property of Railroad, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.

D. If and when requested by Railroad, Contractor shall deliver to Railroad a copy of Contractor's safety plan for conducting the work (the "Safety Plan"). Railroad shall have the right, but not the obligation, to require Contractor to correct any deficiencies in the Safety Plan. The terms of this Agreement shall control if there are any inconsistencies between this Agreement and the Safety Plan.

Section 8. INDEMNITY.

A. To the extent not prohibited by applicable statute, Contractor shall indemnify, defend and hold harmless Railroad, its affiliates, and its and their officers, agents and employees (individually an "Indemnified Party" or collectively "Indemnified Parties") from and against any and all loss, damage, injury, liability, claim, demand, cost or expense (including, without limitation, attorney's, consultant's and expert's fees, and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, any Indemnified Party, Contractor, or any employee of Contractor or of any Indemnified Party) arising out of or in any manner connected with (i) any work performed by Contractor, or (ii) any act or omission of Contractor, its officers, agents or employees, or (iii) any breach of this Agreement by Contractor.

B. The right to indemnity under this Section 8 shall accrue upon occurrence of the event giving rise to the Loss, and shall apply regardless of any negligence or strict liability of any Indemnified Party, except where the Loss is caused by the sole active negligence of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence of any Indemnified Party shall not bar the recovery of any other Indemnified Party.

C. Contractor expressly and specifically assumes potential liability under this Section 8 for claims or actions brought by Contractor's own employees. Contractor waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify the Indemnified Parties under this Section 8. Contractor acknowledges that this waiver was mutually negotiated by the parties hereto.

D. No court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employers' Liability Act against a party to this Agreement may be relied upon or used by Contractor in any attempt to assert liability against any Indemnified Party.

E. The provisions of this Section 8 shall survive the completion of any work performed by Contractor or the termination or expiration of this Agreement. In no event shall this Section 8 or any other provision of this Agreement be deemed to limit any liability Contractor may have to any Indemnified Party by statute or under common law.

Section 9. RESTORATION OF PROPERTY.

In the event Railroad authorizes Contractor to take down any fence of Railroad or in any manner move or disturb any of the other property of Railroad in connection with the work to be performed by Contractor, then in that event Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed. Contractor shall remove all of Contractor's tools, equipment, rubbish and other materials from Railroad's property promptly upon completion of the work, restoring Railroad's property to the same state and condition as when Contractor entered thereon.

Section 10. WAIVER OF DEFAULT.

Waiver by Railroad of any breach or default of any condition, covenant or agreement herein contained to be kept, observed and performed by Contractor shall in no way impair the right of Railroad to avail itself of any remedy for any subsequent breach or default.

Section 11. MODIFICATION - ENTIRE AGREEMENT.

No modification of this Agreement shall be effective unless made in writing and signed by Contractor and Railroad. This Agreement and the exhibits attached hereto and made a part hereof constitute the entire understanding between Contractor and Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work to be performed by Contractor.

Section 12. ASSIGNMENT - SUBCONTRACTING.

Contractor shall not assign or subcontract this Agreement, or any interest therein, without the written consent of the Railroad. Contractor shall be responsible for the acts and omissions of all subcontractors. Before Contractor commences any work, the Contractor shall, except to the extent prohibited by law; (1) require each of its subcontractors to include the Contractor as "Additional Insured" in the subcontractor's Commercial General Liability policy and Business Automobile policies with respect to all liabilities arising out of the subcontractor's performance of work on behalf of the Contractor by endorsing these policies with ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage; (2) require each of its subcontractors to endorse their Commercial General Liability Policy with "Contractual Liability Railroads" ISO Form CG 24 17 10 01 (or a substitute form providing equivalent coverage) for the job site; and (3) require each of its subcontractors to endorse their Business Automobile Policy with "Coverage For Certain Operations In Connection With Railroads" ISO Form CA 20 70 10 01 (or a substitute form providing equivalent coverage) for the job site.

EXHIBIT C
TO
CONTRACTOR'S
RIGHT OF ENTRY AGREEMENT

Union Pacific Railroad Company
Insurance Provisions For
Contractor's Right of Entry Agreement

Contractor shall, at its sole cost and expense, procure and maintain during the course of the Project and until all Project work on Railroad's property has been completed and the Contractor has removed all equipment and materials from Railroad's property and has cleaned and restored Railroad's property to Railroad's satisfaction, the following insurance coverage:

- A. Commercial General Liability** insurance. Commercial general liability (CGL) with a limit of not less than \$5,000,000 each occurrence and an aggregate limit of not less than \$10,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, which must be stated on the certificate of insurance:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.
- Designated Construction Project(s) General Aggregate Limit ISO Form CG 25 03 03 97 (or a substitute form providing equivalent coverage) showing the project on the form schedule.

- B. Business Automobile Coverage** insurance. Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less \$5,000,000 for each accident and coverage must include liability arising out of any auto (including owned, hired and non-owned autos).

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

- Coverage For Certain Operations In Connection With Railroads ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Property" as the Designated Job Site.
- Motor Carrier Act Endorsement - Hazardous materials clean up (MCS-90) if required by law.

- C. Workers' Compensation and Employers' Liability** insurance. Coverage must include but not be limited to:
- Contractor's statutory liability under the workers' compensation laws of the state where the work is being performed.
 - Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Contractor is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy must contain the following endorsement, which must be stated on the certificate of insurance:

- Alternate Employer endorsement ISO form WC 00 03 01 A (or a substitute form providing equivalent coverage) showing Railroad in the schedule as the alternate employer (or a substitute form providing equivalent coverage).

- D. Railroad Protective Liability** insurance. Contractor must maintain "Railroad Protective Liability" (RPL) insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Railroad as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to

this Agreement and shall describe all WORK or OPERATIONS performed under this agreement. Contractor shall provide this Agreement to Contractor's insurance agent(s) and/or broker(s) and Contractor shall instruct such agent(s) and/or broker(s) to procure the insurance coverage required by this Agreement. A BINDER STATING THE POLICY IS IN PLACE MUST BE SUBMITTED TO RAILROAD BEFORE THE WORK MAY COMMENCE AND UNTIL THE ORIGINAL POLICY IS FORWARDED TO UNION PACIFIC RAILROAD.

- E. Umbrella or Excess insurance.** If Contractor utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.
- F. Pollution Liability insurance.** Pollution liability coverage must be included when the scope of the work as defined in the Agreement includes installation, temporary storage, or disposal of any "hazardous" material that is injurious in or upon land, the atmosphere, or any watercourses; or may cause bodily injury at any time.

If required, coverage may be provided in separate policy form or by endorsement to Contractors CGL or RPL. Any form coverage must be equivalent to that provided in ISO form CG 24 15 "Limited Pollution Liability Extension Endorsement" or CG 28 31 "Pollution Exclusion Amendment" with limits of at least \$5,000,000 per occurrence and an aggregate limit of \$10,000,000.

If the scope of work as defined in this Agreement includes the disposal of any hazardous or non-hazardous materials from the job site, Contractor must furnish to Railroad evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of \$1,000,000 per loss, and an annual aggregate of \$2,000,000.

Other Requirements

- G.** All policy(ies) required above (except worker's compensation and employers liability) must include Railroad as "Additional Insured" using ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage). The coverage provided to Railroad as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 26, and CA 20 48 provide coverage for Railroad's negligence whether sole or partial, active or passive, and shall not be limited by Contractor's liability under the indemnity provisions of this Agreement.
- H.** Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless the law governing this Agreement prohibits all punitive damages that might arise under this Agreement.
- I.** Contractor waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Railroad and its agents, officers, directors and employees. This waiver must be stated on the certificate of insurance.
- J.** Prior to commencing the work, Contractor shall furnish Railroad with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this Agreement.
- K.** All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state where the work is being performed.
- L.** The fact that insurance is obtained by Contractor or by Railroad on behalf of Contractor will not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad from Contractor or any third party will not be limited by the amount of the required insurance coverage.

EXHIBIT D
TO
CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

MINIMUM SAFETY REQUIREMENTS

The term "employees" as used herein refer to all employees of Contractor as well as all employees of any subcontractor or agent of Contractor.

I. Clothing

- A. All employees of Contractor will be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision, hearing, or free use of their hands or feet.

Specifically, Contractor's employees must wear:

- (i) Waist-length shirts with sleeves.
 - (ii) Trousers that cover the entire leg. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching.
 - (iii) Footwear that covers their ankles and has a defined heel. Employees working on bridges are required to wear safety-toed footwear that conforms to the American National Standards Institute (ANSI) and FRA footwear requirements.
- B. Employees shall not wear boots (other than work boots), sandals, canvas-type shoes, or other shoes that have thin soles or heels that are higher than normal.
- C. Employees must not wear loose or ragged clothing, neckties, finger rings, or other loose jewelry while operating or working on machinery.

II. Personal Protective Equipment

Contractor shall require its employees to wear personal protective equipment as specified by Railroad rules, regulations, or recommended or requested by the Railroad Representative.

- (i) Hard hat that meets the American National Standard (ANSI) Z89.1 – latest revision. Hard hats should be affixed with Contractor's company logo or name.
- (ii) Eye protection that meets American National Standard (ANSI) for occupational and educational eye and face protection, Z87.1 – latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, etc.
- (iii) Hearing protection, which affords enough attenuation to give protection from noise levels that will be occurring on the job site. Hearing protection, in the form of plugs or muffs, must be worn when employees are within:
 - 100 feet of a locomotive or roadway/work equipment
 - 15 feet of power operated tools
 - 150 feet of jet blowers or pile drivers
 - 150 feet of retarders in use (when within 10 feet, employees must wear dual ear protection – plugs and muffs)
 -
- (iv) Other types of personal protective equipment, such as respirators, fall protection equipment, and face shields, must be worn as recommended or requested by the Railroad Representative.

III. On Track Safety

Contractor is responsible for compliance with the Federal Railroad Administration's Roadway Worker Protection regulations – 49CFR214, Subpart C and Railroad's On-Track Safety rules. Under 49CFR214, Subpart C, railroad contractors are responsible for the training of their employees on such regulations. In addition to the instructions contained in Roadway Worker Protection regulations, all employees must:

- (i) Maintain a distance of twenty-five (25) feet to any track unless the Railroad Representative is present to authorize movements.
- (ii) Wear an orange, reflectorized workwear approved by the Railroad Representative.
- (iii) Participate in a job briefing that will specify the type of On-Track Safety for the type of work being performed. Contractor must take special note of limits of track authority, which tracks may or may not be fouled, and clearing the track. Contractor will also receive special instructions relating to the work zone around machines and minimum distances between machines while working or traveling.

IV. Equipment

- A. It is the responsibility of Contractor to ensure that all equipment is in a safe condition to operate. If, in the opinion of the Railroad Representative, any of Contractor's equipment is unsafe for use, Contractor shall remove such equipment from Railroad's property. In addition, Contractor must ensure that the operators of all equipment are properly trained and competent in the safe operation of the equipment. In addition, operators must be:
 - Familiar and comply with Railroad's rules on lockout/tagout of equipment.
 - Trained in and comply with the applicable operating rules if operating any hy-rail equipment on-track.
 - Trained in and comply with the applicable air brake rules if operating any equipment that moves rail cars or any other railbound equipment.
- B. All self-propelled equipment must be equipped with a first-aid kit, fire extinguisher, and audible back-up warning device.
- C. Unless otherwise authorized by the Railroad Representative, all equipment must be parked a minimum of twenty-five (25) feet from any track. Before leaving any equipment unattended, the operator must stop the engine and properly secure the equipment against movement.
- D. Cranes must be equipped with three orange cones that will be used to mark the working area of the crane and the minimum clearances to overhead powerlines.

V. General Safety Requirements

- A. Contractor shall ensure that all waste is properly disposed of in accordance with applicable federal and state regulations.
- B. Contractor shall ensure that all employees participate in and comply with a job briefing conducted by the Railroad Representative, if applicable. During this briefing, the Railroad Representative will specify safe work procedures, (including On-Track Safety) and the potential hazards of the job. If any employee has any questions or concerns about the work, the employee must voice them during the job briefing. Additional job briefings will be conducted during the work as conditions, work procedures, or personnel change.
- C. All track work performed by Contractor meets the minimum safety requirements established by the Federal Railroad Administration's Track Safety Standards 49CFR213.
- D. All employees comply with the following safety procedures when working around any railroad track:

- (i) Always be on the alert for moving equipment. Employees must always expect movement on any track, at any time, in either direction.
 - (ii) Do not step or walk on the top of the rail, frog, switches, guard rails, or other track components.
 - (iii) In passing around the ends of standing cars, engines, roadway machines or work equipment, leave at least 20 feet between yourself and the end of the equipment. Do not go between pieces of equipment if the opening is less than one car length (50 feet).
 - (iv) Avoid walking or standing on a track unless so authorized by the employee in charge.
 - (v) Before stepping over or crossing tracks, look in both directions first.
 - (vi) Do not sit on, lie under, or cross between cars except as required in the performance of your duties and only when track and equipment have been protected against movement.
- E. All employees must comply with all federal and state regulations concerning workplace safety.

**AREMA UNIT STATEMENT OF RAILROAD HIGHWAY GRADE CROSSING SIGNALS
ESTIMATED MAINTENANCE COSTS**



BUILDING AMERICA®

**FOR PID # 102107
BY THE UNION PACIFIC RAILROAD**

STREET	HARRELL PARKWAY
TOWN	ROUND ROCK, TX
MILEPOST	158.47
SUBDIVISION	AUSTIN
AAR/DOT NO.	972310C
WORK ORDER#	39754

DESCRIPTION	VALUE	QUANTITY	UNITS
NON-CODED TRK. CIRCUIT (Standalone AFTAC or Ring 10)	2	0	0
SUPERIMPOSED CIRCUIT(AFTAC) / DETECTION LOOP	2	0	0
HIGHWAY GRADE CROSSING SIGNAL (FRONT LIGHTS)	2	8	16
ADDITIONAL PAIR OF LIGHTS (OTHER THAN FRONT LIGHTS)	1	9	9
GATE MECHANISM, AUTOMATIC WITH ARM UP TO 26 FT	8	4	32
GATE MECHANISM, AUTOMATIC WITH ARM OVER 26 FT	10	2	20
GCP/HXP (constant warning device, per track circuit)	15	1	15
EXIT GATE MANAGEMENT SYSTEM RACK*	10	0	0
MOVEMENT DETECTOR (PMD)	6	0	0
MOVEMENT DETECTOR (STANDBY UNIT)	3	0	0
RADIO DATA LINK, PER UNIT	1	0	0
PREEMPTION CIRCUIT	2	1	2
DATA RECORDER	1	0	0
REMOTE MONITORING DEVICE (SEAR, ETC)*	2	1	2
BONDED RAIL JOINTS (per mile, each rail, single bonded)	1	0	0
BATTERY AND CHARGER (per set)	1	3	3
TOTAL UNIT COUNT			99
PAVEMENT RESTORATION COSTS			(Actual)
Annual Maintenance Cost at \$170/Unit			\$16,830

*UP supplied Unit Value

July 3, 2018



City of Round Rock

Agenda Item Summary

Agenda Number: H.9

Title: Consider a resolution authorizing the Mayor to execute a Public Highway At-Grade Crossing Agreement with Union Pacific Railroad Company for construction, use, maintenance and repair of an at grade public road crossing over Brushy Creek Plant Road.

Type: Resolution

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Gary Hudder, Transportation Director

Cost: \$20,500.00

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

Attachments: Resolution, Exhibit A

Department: Transportation Department

Text of Legislative File 2019-0155

This are agreement between the Union Pacific Railroad Company (UPRR) and the City of Round Rock is for the purpose of constructing, use, maintenance and repair of an at grade public road crossing over Brushy Creek Plant Road at mile post 157.90 on UPRR main line. The crossing will be upgraded and widened as part of the Kalahari road improvements and the planned quiet zone project.

This agreement is a portion of an overall agreement, which includes similar improvements at Harrell Parkway.

Cost: \$20,500.00

Source of Funds: *RR Transportation and Economic Development Corporation*

RESOLUTION NO. R-2019-0155

WHEREAS, as part of the Kalahari road improvements and the planned Quiet Zone Project, the City of Round Rock (“City”) desires to reconstruct and widen the at grade public road crossing over Brushy Creek Plant Road DOT No. 439682D at Mile Post 157.90, as shown on Exhibit “A” of the Public Highway At-Grade Crossing Agreement, and

WHEREAS, the City wishes to enter into a Public Highway At-Grade Crossing Agreement with Union Pacific Railroad Company, 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 Public Highway At-Grade Crossing Agreement with Union Pacific Railroad Company, 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 11th day of April, 2019.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk

EXHIBIT

"A"

UP Real Estate Folder No.: 694-81
Audit Number _____

PUBLIC HIGHWAY AT-GRADE CROSSING

BRUSHY CREEK PLANT ROAD
DOT 439682D
MILE POST 157.90, AUSTIN SUB
ROUND ROCK, WILLIAMSON COUNTY, TEXAS

THIS AGREEMENT ("Agreement") is made and entered into as of the ____ day of _____, 20____ ("Effective Date"), by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, to be addressed at Real Estate Department, 1400 Douglas Street, Mail Stop 1690, Omaha, Nebraska 68179 ("Railroad") and **CITY OF ROUND ROCK**, a municipal corporation or political subdivision of the State of Texas to be addressed at 2008 Enterprise Drive, Round Rock, TX 78664 ("Political Body").

RECITALS:

By instrument dated August 22, 1986, the Missouri Pacific Railroad Company and the Political Body entered into an agreement (the "Original Agreement") covering the construction, use, maintenance and repair of an at grade public road crossing over Brushy Creek Plant Road DOT Number 439682D at Railroad's Milepost 157.90 on Railroad's Austin Subdivision at or near Round Rock, Williamson County, Texas.

The Railroad named herein is successor in interest to Missouri Pacific Railroad Company.

The Political Body now desires to undertake as its project (the "Project") the reconstruction and widening of the road crossing that was constructed under the Original Agreement. The road crossing, as reconstructed and widened is hereinafter the "Roadway" and the portion of the Railroad's property where the Roadway crosses the Railroad's property is the "Crossing Area."

The right of way granted Missouri Pacific Railroad Company to the Political Body under the terms of the Original Agreement or a separate document is not sufficient to allow for the reconstruction and widening of the Roadway. Therefore, under this Agreement, the Railroad will be granting additional rights to the Political Body to facilitate the reconstruction and widening of the Roadway. The portion of Railroad's property that Political Body needs to use in connection with the Roadway, ("New Crossing Area") (including the right of way area covered under the Original Agreement

or in a separate document ("Existing Crossing Area")) is shown on the print and plans marked **Exhibit A** and **Exhibit A-1**, both attached hereto and hereby made a part hereof (the "Crossing Area").

The Railroad and the Political Body are entering into this Agreement to cover the above.

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

Section 1. EXHIBIT B

The general terms and conditions marked **Exhibit B**, are attached hereto and hereby made a part hereof.

Section 2. RAILROAD GRANTS RIGHT

For and in consideration of the sum of **TWENTY THOUSAND AND FIVE HUNDRED DOLLARS (\$20,500.00)** to be paid by the Political Body to the Railroad upon the execution and delivery of this Agreement and in further consideration of the Political Body's agreement to perform and comply with the terms of this Agreement, the Railroad hereby grants to the Political Body the right to construct, maintain and repair the Roadway over and across the Crossing Area.

Section 3. DEFINITION OF CONTRACTOR

For purposes of this Agreement the term "Contractor" shall mean the contractor or contractors hired by the Political Body to perform any Project work on any portion of the Railroad's property and shall also include the Contractor's subcontractors and the Contractor's and subcontractor's respective employees, officers and agents, and others acting under its or their authority.

Section 4. CONTRACTOR'S RIGHT OF ENTRY AGREEMENT - INSURANCE

A. Prior to Contractor performing any work within the Crossing Area and any subsequent maintenance and repair work, the Political Body shall require the Contractor to:

- execute the Railroad's then current Contractor's Right of Entry Agreement
- obtain the then current insurance required in the Contractor's Right of Entry Agreement; and
- provide such insurance policies, certificates, binders and/or endorsements to the Railroad.

B. The Railroad's current Contractor's Right of Entry Agreement is marked **Exhibit D**, attached hereto and hereby made a part hereof. The Political Body confirms that it will inform its Contractor that it is required to execute such form of agreement and obtain the required insurance before commencing any work on any Railroad property. Under no circumstances will the Contractor be allowed on the Railroad's property without first executing the Railroad's Contractor's Right of Entry Agreement and obtaining the insurance set forth therein and also providing to the Railroad the insurance policies, binders, certificates and/or endorsements described therein.

C. All insurance correspondence, binders, policies, certificates and/or endorsements shall be sent to:

Manager - Contracts
Union Pacific Railroad Company
Real Estate Department
1400 Douglas Street, Mail Stop 1690
Omaha, NE 68179-1690
UP File Folder No. 694-81

D. If the Political Body's own employees will be performing any of the Project work, the Political Body may self-insure all or a portion of the insurance coverage subject to the Railroad's prior review and approval.

Section 5. FEDERAL AID POLICY GUIDE

If the Political Body will be receiving any federal funding for the Project, the current rules, regulations and provisions of the Federal Aid Policy Guide as contained in 23 CFR 140, Subpart I and 23 CFR 646, Subparts A and B are incorporated into this Agreement by reference.

Section 6. NO PROJECT EXPENSES TO BE BORNE BY RAILROAD

The Political Body agrees that no Project costs and expenses are to be borne by the Railroad. In addition, the Railroad is not required to contribute any funding for the Project.

Section 7. WORK TO BE PERFORMED BY RAILROAD; BILLING SENT TO POLITICAL BODY; POLITICAL BODY'S PAYMENT OF BILLS

A. The work to be performed by the Railroad, at the Political Body's sole cost and expense, is described in the Railroad's Material and Force Account Estimates dated 7/9/18 and 10/5/18, marked **Exhibit C**, attached hereto and hereby made a part hereof (the "Estimates"). As set forth in the Estimates, the Railroad's estimated cost for the Railroad's work associated with the Project is EIGHT HUNDRED SIXTY EIGHT THOUSAND SIXTY EIGHT DOLLARS (\$868,068.00).

B. The Railroad, if it so elects, may recalculate and update the Estimate submitted to the Political Body in the event the Political Body does not commence construction on the portion of the Project located on the Railroad's property within six (6) months from the date of the Estimate.

C. The Political Body acknowledges that the Estimate does not include any estimate of flagging or other protective service costs that are to be paid by the Political Body or the Contractor in connection with flagging or other protective services provided by the Railroad in connection with the Project. All of such costs incurred by the Railroad are to be paid by the Political Body or the Contractor as determined by the Railroad and the Political Body. If it is determined that the Railroad will be billing the Contractor directly for such costs, the Political Body agrees that it will pay the Railroad for any flagging costs that have not been paid by any Contractor within thirty (30) days of the Contractor's receipt of billing.

D. The Railroad shall send progressive billing to the Political Body during the Project and final billing to the Political Body within one hundred eighty (180) days after receiving written notice from the Political Body that all Project work affecting the Railroad's property has been completed.

E. The Political Body agrees to reimburse the Railroad within thirty (30) days of its receipt of billing from the Railroad for one hundred percent (100%) of all actual costs incurred by the Railroad in connection with the Project including, but not limited to, all actual costs of engineering review (including preliminary engineering review costs incurred by Railroad prior to the Effective Date of this Agreement), construction, inspection, flagging (unless flagging costs are to be billed directly to the Contractor), procurement of materials, equipment rental, manpower and deliveries to the job site and all direct and indirect overhead labor/construction costs including Railroad's standard additive rates.

Section 8. PLANS

A. The Political Body, at its expense, shall prepare, or cause to be prepared by others, the detailed plans and specifications for the Project and the Structure and submit such plans and specifications to the Railroad's Assistant Vice President Engineering-Design, or his authorized representative, for prior review and approval. The plans and specifications shall include all Roadway layout specifications, cross sections and elevations, associated drainage, and other appurtenances.

B. The final one hundred percent (100%) completed plans that are approved in writing by the Railroad's Assistant Vice President Engineering-Design, or his authorized representative, are hereinafter referred to as the "Plans". The Plans are hereby made a part of this Agreement by reference.

C. No changes in the Plans shall be made unless the Railroad has consented

to such changes in writing.

D. The Railroad's review and approval of the Plans will in no way relieve the Political Body or the Contractor from their responsibilities, obligations and/or liabilities under this Agreement, and will be given with the understanding that the Railroad makes no representations or warranty as to the validity, accuracy, legal compliance or completeness of the Plans and that any reliance by the Political Body or Contractor on the Plans is at the risk of the Political Body and Contractor.

Section 9. NON-RAILROAD IMPROVEMENTS

A. Submittal of plans and specifications for protecting, encasing, reinforcing, relocation, replacing, removing and abandoning in place all non-railroad owned facilities (the "Non Railroad Facilities") affected by the Project including, without limitation, utilities, fiber optics, pipelines, wirelines, communication lines and fences is required under Section 8. The Non Railroad Facilities plans and specifications shall comply with Railroad's standard specifications and requirements, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines. Railroad has no obligation to supply additional land for any Non Railroad Facilities and does not waive its right to assert preemption defenses, challenge the right-to-take, or pursue compensation in any condemnation action, regardless if the submitted Non Railroad Facilities plans and specifications comply with Railroad's standard specifications and requirements. Railroad has no obligation to permit any Non Railroad Facilities to be abandoned in place or relocated on Railroad's property.

B. Upon Railroad's approval of submitted Non Railroad Facilities plans and specifications, Railroad will attempt to incorporate them into new agreements or supplements of existing agreements with Non Railroad Facilities owners or operators. Railroad may use its standard terms and conditions, including, without limitation, its standard license fee and administrative charges when requiring supplements or new agreements for Non Railroad Facilities. Non Railroad Facilities work shall not commence before a supplement or new agreement has been fully executed by Railroad and the Non Railroad Facilities owner or operator, or before Railroad and Political Body mutually agree in writing to (i) deem the approved Non Railroad Facilities plans and specifications to be Plans pursuant to Section 8B, (ii) deem the Non Railroad Facilities part of the Structure, and (iii) supplement this Agreement with terms and conditions covering the Non Railroad Facilities.

Section 10. EFFECTIVE DATE; TERM; TERMINATION

A. This Agreement is effective as of the Effective Date first herein written and shall continue in full force and effect for as long as the Roadway remains on the Railroad's property.

B. The Railroad, if it so elects, may terminate this Agreement effective upon

delivery of written notice to the Political Body in the event the Political Body does not commence construction on the portion of the Project located on the Railroad's property within twelve (12) months from the Effective Date.

C. If the Agreement is terminated as provided above, or for any other reason, the Political Body shall pay to the Railroad all actual costs incurred by the Railroad in connection with the Project up to the date of termination, including, without limitation, all actual costs incurred by the Railroad in connection with reviewing any preliminary or final Project Plans.

Section 11. CONDITIONS TO BE MET BEFORE POLITICAL BODY CAN COMMENCE WORK

Neither the Political Body nor the Contractor may commence any work within the Crossing Area or on any other Railroad property until:

- (i) The Railroad and Political Body have executed this Agreement.
- (ii) The Railroad has provided to the Political Body the Railroad's written approval of the Plans.
- (iii) Each Contractor has executed Railroad's Contractor's Right of Entry Agreement and has obtained and/or provided to the Railroad the insurance policies, certificates, binders, and/or endorsements required under the Contractor's Right of Entry Agreement.
- (iv) Each Contractor has given the advance notice(s) required under the Contractor's Right of Entry Agreement to the Railroad Representative named in the Contractor's Right of Entry Agreement.

Section 12. FUTURE PROJECTS

Future projects involving substantial maintenance, repair, reconstruction, renewal and/or demolition of the Roadway shall not commence until Railroad and Political Body agree on the plans for such future projects, cost allocations, right of entry terms and conditions and temporary construction rights, terms and conditions.

Section 13. ASSIGNMENT; SUCCESSORS AND ASSIGNS

A. Political Body shall not assign this Agreement without the prior written consent of Railroad.

B. Subject to the provisions of Paragraph A above, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of Railroad and Political Body.

Section 14. SPECIAL PROVISIONS PERTAINING TO AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

If the Political Body will be receiving American Recovery and Reinvestment Act ("ARRA") funding for the Project, the Political Body agrees that it is responsible in performing and completing all ARRA reporting documents for the Project. The Political Body confirms and acknowledges that Section 1512 of the ARRA provisions applies only to a "recipient" receiving ARRA funding directing from the federal government and, therefore, (i) the ARRA reporting requirements are the responsibility of the Political Body and not of the Railroad, and (ii) the Political Body shall not delegate any ARRA reporting responsibilities to the Railroad. The Political Body also confirms and acknowledges that (i) the Railroad shall provide to the Political Body the Railroad's standard and customary billing for expenses incurred by the Railroad for the Project including the Railroad's standard and customary documentation to support such billing, and (ii) such standard and customary billing and documentation from the Railroad provides the information needed by the Political Body to perform and complete the ARRA reporting documents. The Railroad confirms that the Political Body and the Federal Highway Administration shall have the right to audit the Railroad's billing and documentation for the Project as provided in Section 11 of **Exhibit B** of this Agreement.

Section 15. SIGNAL MAINTENANCE COSTS

A. Effective as of the completion date of installation of crossing warning signals, the Political Body, in addition to maintaining at its sole cost and expense the portion of the Roadway described in Section 2 of **Exhibit B**, agrees to pay to Railroad the sum of ELEVEN THOUSAND THREE HUNDRED NINETY DOLLARS (\$11,390.00) per annum, payable annually in advance, as payment for Railroad's maintenance of the railroad crossing warning signals that are to be installed by the Railroad at the Crossing Area.

B. The above annual fee is based on the number of current signal units at the Crossing Area, as shown on **Exhibit E**, attached hereto and hereby made a part hereof. Effective on the first anniversary of this Agreement and on the anniversary date of each subsequent one year period, the annual fee will be increased at a rate based on the American Association of Railroad's (AAR) signal unit cost index. Such changes in the maintenance fee may be made by the Railroad by means of automatic adjustment in billing. The signal unit base for the annual fee may be re-determined by the Railroad at any time subsequent to the expiration of five (5) years following the date on which the annual rental was last determined or established. Such changes in the maintenance fee may be made by means of automatic adjustment in billing.

Section 16. SUPPLEMENT TO THE EXISTING AGREEMENT

The Original Agreement dated August 22, 1986, shall be supplemented by this Agreement. In the event of any conflict between the Original Agreement and this Agreement, the terms and provisions of this Agreement shall control.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the Effective Date first herein written.

UNION PACIFIC RAILROAD COMPANY
(Federal Tax ID #94-6001323)

By: _____
Printed Name: _____
Title: _____

ATTEST:

CITY OF ROUND ROCK

[City Clerk] [County Clerk]

By: _____
Printed Name: _____
Title: _____

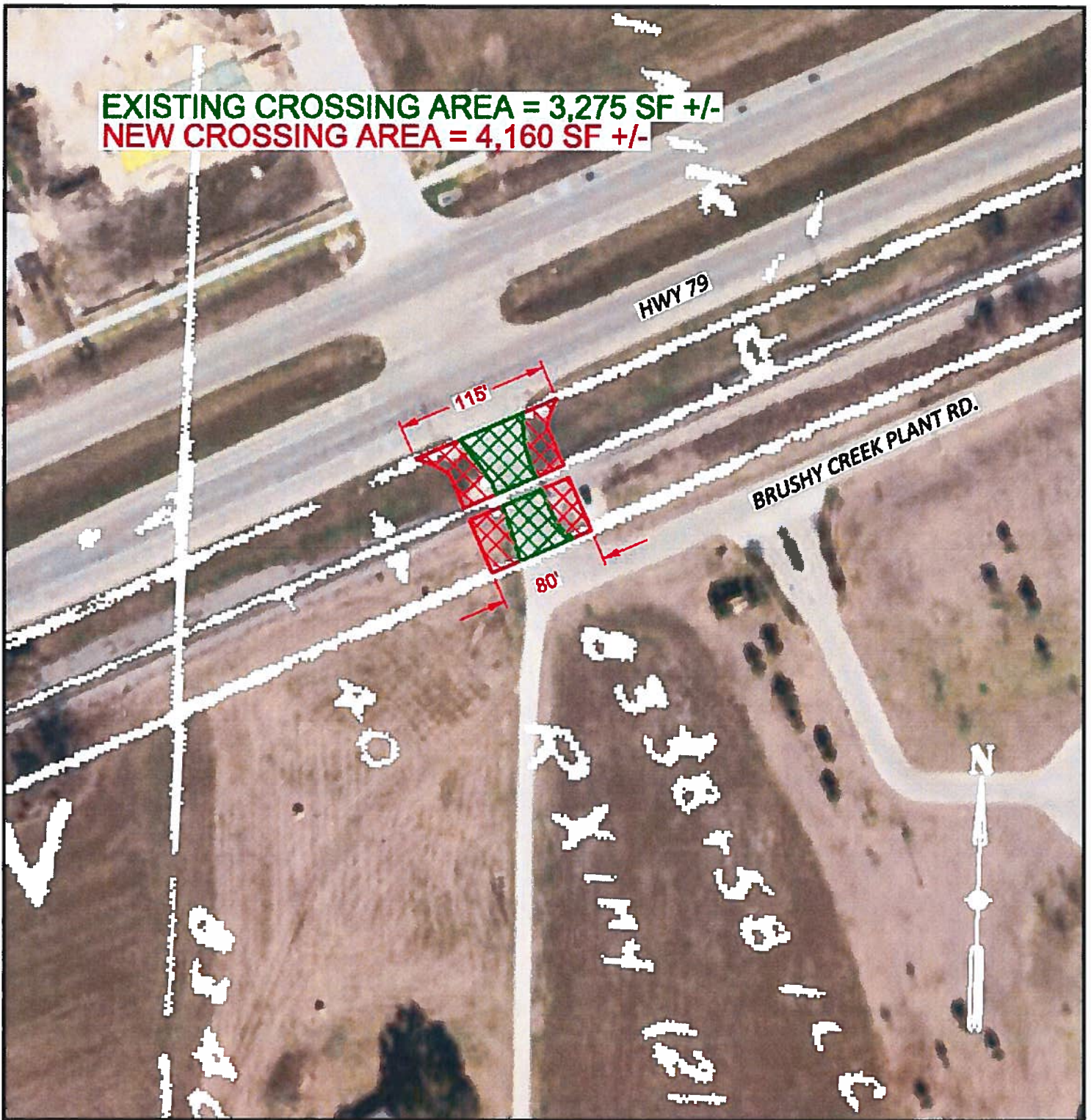
(Seal)

Pursuant to Resolution/Order No. _____
dated: _____, 20__ hereto attached


**EXHIBIT A
TO
PUBLIC HIGHWAY AT GRADE CROSSING AGREEMENT**


Exhibit A will be a print showing the Crossing Area (see Recitals)


EXISTING CROSSING AREA = 3,275 SF +/-
NEW CROSSING AREA = 4,160 SF +/-



LEGEND:

NEW CROSSING AREA..... 

EXISTING CROSSING AREA..... 

UPRRCO. R/W OUTLINED..... 

NOTE: BEFORE YOU BEGIN ANY WORK, SEE
AGREEMENT FOR FIBER OPTIC PROVISIONS.

EXHIBIT "A"

UNION PACIFIC RAILROAD COMPANY

ROUND ROCK, WILLIAMSON COUNTY, TX

M.P. 157.90 - AUSTIN SUB.

MAP IGN TX V-7B / 10

SCALE: 1" = 100'

OFFICE OF REAL ESTATE
OMAHA, NEBRASKA DATE: 3/1/2019

RRM FILE: 00694-81

CADD
FILENAME 0069481.DGN

SCAN
FILENAME 0069481_tx1286.PNG

**EXHIBIT A-1
TO
PUBLIC HIGHWAY AT GRADE CROSSING AGREEMENT**

Exhibit A-1 will be the plans showing the Crossing Area (see Recitals)

**EXHIBIT B
TO
PUBLIC HIGHWAY AT GRADE CROSSING AGREEMENT**

SECTION 1. CONDITIONS AND COVENANTS

A. The Railroad makes no covenant or warranty of title for quiet possession or against encumbrances. The Political Body shall not use or permit use of the Crossing Area for any purposes other than those described in this Agreement. Without limiting the foregoing, the Political Body shall not use or permit use of the Crossing Area for railroad purposes, or for gas, oil or gasoline pipe lines. Any lines constructed on the Railroad's property by or under authority of the Political Body for the purpose of conveying electric power or communications incidental to the Political Body's use of the property for highway purposes shall be constructed in accordance with specifications and requirements of the Railroad, and in such manner as not adversely to affect communication or signal lines of the Railroad or its licensees now or hereafter located upon said property. No nonparty shall be admitted by the Political Body to use or occupy any part of the Railroad's property without the Railroad's written consent. Nothing herein shall obligate the Railroad to give such consent.

B. The Railroad reserves the right to cross the Crossing Area with such railroad tracks as may be required for its convenience or purposes. In the event the Railroad shall place additional tracks upon the Crossing Area, the Political Body shall, at its sole cost and expense, modify the Roadway to conform with all tracks within the Crossing Area.

C. The right hereby granted is subject to any existing encumbrances and rights (whether public or private), recorded or unrecorded, and also to any renewals thereof. The Political Body shall not damage, destroy or interfere with the property or rights of nonparties in, upon or relating to the Railroad's property, unless the Political Body at its own expense settles with and obtains releases from such nonparties.

D. The Railroad reserves the right to use and to grant to others the right to use the Crossing Area for any purpose not inconsistent with the right hereby granted, including, but not by way of limitation, the right to construct, reconstruct, maintain, operate, repair, alter, renew and replace tracks, facilities and appurtenances on the property; and the right to cross the Crossing Area with all kinds of equipment.

E. So far as it lawfully may do so, the Political Body will assume, bear and pay all taxes and assessments of whatsoever nature or kind (whether general, local or special) levied or assessed upon or against the Crossing Area, excepting taxes levied upon and against the property as a component part of the Railroad's operating

property.

F. If any property or rights other than the right hereby granted are necessary for the construction, maintenance and use of the Roadway and its appurtenances, or for the performance of any work in connection with the Project, the Political Body will acquire all such other property and rights at its own expense and without expense to the Railroad.

SECTION 2. CONSTRUCTION OF ROADWAY

A. The Political Body, at its expense, will apply for and obtain all public authority required by law, ordinance, rule or regulation for the Project, and will furnish the Railroad upon request with satisfactory evidence that such authority has been obtained.

B. Except as may be otherwise specifically provided herein, the Political Body, at its expense, will furnish all necessary labor, material and equipment, and shall construct and complete the Roadway and all appurtenances thereof. The appurtenances shall include, without limitation, all necessary and proper highway warning devices (except those installed by the Railroad within its right of way) and all necessary drainage facilities, guard rails or barriers, and right of way fences between the Roadway and the railroad tracks. Upon completion of the Project, the Political Body shall remove from the Railroad's property all temporary structures and false work, and will leave the Crossing Area in a condition satisfactory to the Railroad.

C. All construction work of the Political Body upon the Railroad's property (including, but not limited to, construction of the Roadway and all appurtenances and all related and incidental work) shall be performed and completed in a manner satisfactory to the Assistant Vice President Engineering-Design of the Railroad or his authorized representative and in compliance with the Plans, and other guidelines furnished by the Railroad.

D. All construction work of the Political Body shall be performed diligently and completed within a reasonable time. No part of the Project shall be suspended, discontinued or unduly delayed without the Railroad's written consent, and subject to such reasonable conditions as the Railroad may specify. It is understood that the Railroad's tracks at and in the vicinity of the work will be in constant or frequent use during progress of the work and that movement or stoppage of trains, engines or cars may cause delays in the work of the Political Body. The Political Body hereby assumes the risk of any such delays and agrees that no claims for damages on account of any delay shall be made against the Railroad by the State and/or the Contractor.

SECTION 3. INJURY AND DAMAGE TO PROPERTY

If the Political Body, in the performance of any work contemplated by this Agreement or by the failure to do or perform anything for which the Political Body is responsible under the provisions of this Agreement, shall injure, damage or destroy any property of the Railroad or of any other person lawfully occupying or using the property of the Railroad, such property shall be replaced or repaired by the Political Body at the Political Body's own expense, or by the Railroad at the expense of the Political Body, and to the satisfaction of the Railroad's Assistant Vice President Engineering-Design.

SECTION 4. RAILROAD MAY USE CONTRACTORS TO PERFORM WORK

The Railroad may contract for the performance of any of its work by other than the Railroad forces. The Railroad shall notify the Political Body of the contract price within ninety (90) days after it is awarded. Unless the Railroad's work is to be performed on a fixed price basis, the Political Body shall reimburse the Railroad for the amount of the contract.

SECTION 5. MAINTENANCE AND REPAIRS

A. The Political Body shall, at its own sole expense, maintain, repair, and renew, or cause to be maintained, repaired and renewed, the entire Crossing Area and Roadway, except the portions between the track tie ends, which shall be maintained by and at the expense of the Railroad.

B. If, in the future, the Political Body elects to have the surfacing material between the track tie ends, or between tracks if there is more than one railroad track across the Crossing Area, replaced with paving or some surfacing material other than timer planking, the Railroad, at the Political Body's expense, shall install such replacement surfacing, and in the future, to the extent repair or replacement of the surfacing is necessitated by repair or rehabilitation of the Railroad's tracks through the Crossing Area, the Political Body shall bear the expense of such repairs or replacement.

SECTION 6. CHANGES IN GRADE

If at any time the Railroad shall elect, or be required by competent authority to, raise or lower the grade of all or any portion of the track(s) located within the Crossing Area, the Political Body shall, at its own expense, conform the Roadway to conform with the change of grade of the trackage.

SECTION 7. REARRANGEMENT OF WARNING DEVICES

If the change or rearrangement of any warning device installed hereunder is necessitated for public or Railroad convenience or on account of improvements for either the Railroad, highway or both, the parties will apportion the expense incidental

thereto between themselves by negotiation, agreement or by the order of a competent authority before the change or rearrangement is undertaken.

SECTION 8. SAFETY MEASURES; PROTECTION OF RAILROAD COMPANY OPERATIONS

It is understood and recognized that safety and continuity of the Railroad's operations and communications are of the utmost importance; and in order that the same may be adequately safeguarded, protected and assured, and in order that accidents may be prevented and avoided, it is agreed with respect to all of said work of the Political Body that the work will be performed in a safe manner and in conformity with the following standards:

A. **Definitions.** All references in this Agreement to the Political Body shall also include the Contractor and their respective officers, agents and employees, and others acting under its or their authority; and all references in this Agreement to work of the Political Body shall include work both within and outside of the Railroad's property.

B. **Entry on to Railroad's Property by Political Body.** If the Political Body's employees need to enter Railroad's property in order to perform an inspection of the Roadway, minor maintenance or other activities, the Political Body shall first provide at least ten (10) working days advance notice to the Railroad Representative. With respect to such entry on to Railroad's property, the Political Body, to the extent permitted by law, agrees to release, defend and indemnify the Railroad from and against any loss, damage, injury, liability, claim, cost or expense incurred by any person including, without limitation, the Political Body's employees, or damage to any property or equipment (collectively the "Loss") that arises from the presence or activities of Political Body's employees on Railroad's property, except to the extent that any Loss is caused by the sole direct negligence of Railroad.

C. **Flagging.**

(i) If the Political Body's employees need to enter Railroad's property as provided in Paragraph B above, the Political Body agrees to notify the Railroad Representative at least thirty (30) working days in advance of proposed performance of any work by Political Body in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such thirty (30) day notice, the Railroad Representative will determine and inform Political Body whether a flagman need be present and whether Political Body needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill

Political Body for such expenses incurred by Railroad. If Railroad performs any flagging, or other special protective or safety measures are performed by Railroad, Political Body agrees that Political Body is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

(ii) The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Political Body shall pay on the basis of the new rates and charges.

(iii) Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Political Body may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Political Body must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Political Body will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional thirty (30) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

D. **Compliance With Laws.** The Political Body shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work. The Political Body shall use only such methods as are consistent with safety, both as concerns the Political Body, the Political Body's agents and employees, the officers, agents, employees and property of the Railroad and the public in general. The Political Body (without limiting the generality of the foregoing) shall comply with all applicable state and federal occupational safety and health acts and regulations. All Federal

Railroad Administration regulations shall be followed when work is performed on the Railroad's premises. If any failure by the Political Body to comply with any such laws, regulations, and enactments, shall result in any fine, penalty, cost or charge being assessed, imposed or charged against the Railroad, the Political Body shall reimburse, and to the extent it may lawfully do so, indemnify the Railroad for any such fine, penalty, cost, or charge, including without limitation attorney's fees, court costs and expenses. The Political Body further agrees in the event of any such action, upon notice thereof being provided by the Railroad, to defend such action free of cost, charge, or expense to the Railroad.

E. **No Interference or Delays.** The Political Body shall not do, suffer or permit anything which will or may obstruct, endanger, interfere with, hinder or delay maintenance or operation of the Railroad's tracks or facilities, or any communication or signal lines, installations or any appurtenances thereof, or the operations of others lawfully occupying or using the Railroad's property or facilities.

F. **Supervision.** The Political Body, at its own expense, shall adequately police and supervise all work to be performed by the Political Body, and shall not inflict injury to persons or damage to property for the safety of whom or of which the Railroad may be responsible, or to property of the Railroad. The responsibility of the Political Body for safe conduct and adequate policing and supervision of the Project shall not be lessened or otherwise affected by the Railroad's approval of plans and specifications, or by the Railroad's collaboration in performance of any work, or by the presence at the work site of the Railroad's representatives, or by compliance by the Political Body with any requests or recommendations made by such representatives. If a representative of the Railroad is assigned to the Project, the Political Body will give due consideration to suggestions and recommendations made by such representative for the safety and protection of the Railroad's property and operations.

G. **Suspension of Work.** If at any time the Political Body's engineers or the Vice President-Engineering Services of the Railroad or their respective representatives shall be of the opinion that any work of the Political Body is being or is about to be done or prosecuted without due regard and precaution for safety and security, the Political Body shall immediately suspend the work until suitable, adequate and proper protective measures are adopted and provided.

H. **Removal of Debris.** The Political Body shall not cause, suffer or permit material or debris to be deposited or cast upon, or to slide or fall upon any property or facilities of the Railroad; and any such material and debris shall be promptly removed from the Railroad's property by the Political Body at the Political Body's own expense or by the Railroad at the expense of the Political Body. The Political Body shall not cause, suffer or permit any snow to be plowed or cast upon the Railroad's property during snow removal from the Crossing Area.

I. **Explosives.** The Political Body shall not discharge any explosives on or in the vicinity of the Railroad's property without the prior consent of the Railroad's Vice

President-Engineering Services, which shall not be given if, in the sole discretion of the Railroad's Vice President-Engineering Services, such discharge would be dangerous or would interfere with the Railroad's property or facilities. For the purposes hereof, the "vicinity of the Railroad's property" shall be deemed to be any place on the Railroad's property or in such close proximity to the Railroad's property that the discharge of explosives could cause injury to the Railroad's employees or other persons, or cause damage to or interference with the facilities or operations on the Railroad's property. The Railroad reserves the right to impose such conditions, restrictions or limitations on the transportation, handling, storage, security and use of explosives as the Railroad, in the Railroad's sole discretion, may deem to be necessary, desirable or appropriate.

J. **Excavation.** The Political Body shall not excavate from existing slopes nor construct new slopes which are excessive and may create hazards of slides or falling rock, or impair or endanger the clearance between existing or new slopes and the tracks of the Railroad. The Political Body shall not do or cause to be done any work which will or may disturb the stability of any area or adversely affect the Railroad's tracks or facilities. The Political Body, at its own expense, shall install and maintain adequate shoring and cribbing for all excavation and/or trenching performed by the Political Body in connection with construction, maintenance or other work. The shoring and cribbing shall be constructed and maintained with materials and in a manner approved by the Railroad's Assistant Vice President Engineering - Design to withstand all stresses likely to be encountered, including any stresses resulting from vibrations caused by the Railroad's operations in the vicinity.

K. **Drainage.** The Political Body, at the Political Body's own expense, shall provide and maintain suitable facilities for draining the Roadway and its appurtenances, and shall not suffer or permit drainage water therefrom to flow or collect upon property of the Railroad. The Political Body, at the Political Body's own expense, shall provide adequate passageway for the waters of any streams, bodies of water and drainage facilities (either natural or artificial, and including water from the Railroad's culvert and drainage facilities), so that said waters may not, because of any facilities or work of the Political Body, be impeded, obstructed, diverted or caused to back up, overflow or damage the property of the Railroad or any part thereof, or property of others. The Political Body shall not obstruct or interfere with existing ditches or drainage facilities.

L. **Notice.** Before commencing any work, the Political Body shall provide the advance notice to the Railroad that is required under the Contractor's Right of Entry Agreement.

M. **Fiber Optic Cables.** Fiber optic cable systems may be buried on the Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Political Body shall telephone the Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except

holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on the Railroad's premises to be used by the Political Body. If it is, Political Body will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on the Railroad's premises.

SECTION 9. INTERIM WARNING DEVICES

If at anytime it is determined by a competent authority, by the Political Body, or by agreement between the parties, that new or improved train activated warning devices should be installed at the Crossing Area, the Political Body shall install adequate temporary warning devices or signs and impose appropriate vehicular control measures to protect the motoring public until the new or improved devices have been installed.

SECTION 10. OTHER RAILROADS

All protective and indemnifying provisions of this Agreement shall inure to the benefit of the Railroad and any other railroad company lawfully using the Railroad's property or facilities.

SECTION 11. BOOKS AND RECORDS

The books, papers, records and accounts of Railroad, so far as they relate to the items of expense for the materials to be provided by Railroad under this Project, or are associated with the work to be performed by Railroad under this Project, shall be open to inspection and audit at Railroad's offices in Omaha, Nebraska, during normal business hours by the agents and authorized representatives of Political Body for a period of three (3) years following the date of Railroad's last billing sent to Political Body.

SECTION 12. REMEDIES FOR BREACH OR NONUSE

A. If the Political Body shall fail, refuse or neglect to perform and abide by the terms of this Agreement, the Railroad, in addition to any other rights and remedies, may perform any work which in the judgment of the Railroad is necessary to place the Roadway and appurtenances in such condition as will not menace, endanger or interfere with the Railroad's facilities or operations or jeopardize the Railroad's employees; and the Political Body will reimburse the Railroad for the expenses thereof.

B. Nonuse by the Political Body of the Crossing Area for public highway purposes continuing at any time for a period of eighteen (18) months shall, at the option of the Railroad, work a termination of this Agreement and of all rights of the Political Body hereunder.

C. The Political Body will surrender peaceable possession of the Crossing Area and Roadway upon termination of this Agreement. Termination of this Agreement shall not affect any rights, obligations or liabilities of the parties, accrued or otherwise, which may have arisen prior to termination.

SECTION 13. MODIFICATION - ENTIRE AGREEMENT

No waiver, modification or amendment of this Agreement shall be of any force or effect unless made in writing, signed by the Political Body and the Railroad and specifying with particularity the nature and extent of such waiver, modification or amendment. Any waiver by the Railroad of any default by the Political Body shall not affect or impair any right arising from any subsequent default. This Agreement and Exhibits attached hereto and made a part hereof constitute the entire understanding between the Political Body and the Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work or any part thereof.

EXHIBIT C

TO

PUBLIC HIGHWAY AT GRADE CROSSING AGREEMENT

Exhibit C (if applicable) will be Railroad's Material and Force Agreement Estimate.

DATE: 2018-10-05

ESTIMATE OF MATERIAL AND FORCE ACCOUNT WORK
BY THE
UNION PACIFIC RAILROAD

THIS ESTIMATE GOOD FOR 6 MONTHS EXPIRATION DATE IS :2019-04-05

DESCRIPTION OF WORK:

ROUND ROCK, TX / BUSHY CREEK PLANT / DOT#439682D-2 / AUSTIN SUB /
MP 157.90
REMOVE EXISTING 32' CROSSING SURFACE, INSTALL NEW 80' CROSSING SURFACE
INCLUDING TIES, RAIL, AND OTM
PROJECT WAS BUILT USING FED ADDITIVE W/ OVERHEAD AND INDIRECT 234%

PID: 104276 AWO: MP, SUBDIV: 157.90, AUSTIN
SERVICE UNIT: 12 CITY: ROUND ROCK STATE: TX

DESCRIPTION	QTY	UNIT	LABOR	MATERIAL	RECOLL	UPRR	TOTAL
-----	---	----	-----	-----	-----	-----	-----
ENGINEERING WORK							
ENGINEERING			5033		5033		5033
LABOR ADDITIVE 234%			11778		11778		11778
			-----	-----	-----	-----	-----
TOTAL ENGINEERING			16811		16811		16811
SIGNAL WORK							
LABOR ADDITIVE 234%			1259		1259		1259
SIGNAL			640	5	645		645
			-----	-----	-----	-----	-----
TOTAL SIGNAL			1899	5	1904		1904
TRACK & SURFACE WORK							
BALAST	3.00	CL	824	3006	3830		3830
BILL PREP FEE				900	900		900
CONTRACT COSTS				57500	57500		57500
ENVIRONMENTAL PERMIT				10	10		10
FOREIGN LINE FREIGHT				1907	1907		1907
HOMELINE FREIGHT				900	900		900
LABOR ADDITIVE 234%			21044		21044		21044
MATL STORE EXPENSE				123	123		123
OTM			773	1528	2301		2301
RAIL	320.00	LF	2594	5561	8155		8155
RDXING	80.00	TF	865	14234	15099		15099
SALES TAX				1381	1381		1381
TRK-SURF, LIN			2134		2134		2134
WELD			2681	378	3059		3059
XTIE	100.00	EA	3180	9862	13042		13042
			-----	-----	-----	-----	-----
TOTAL TRACK & SURFACE			34095	97290	131385		131385
			-----	-----	-----	-----	-----
LABOR/MATERIAL EXPENSE			52805	97295			
RECOLLECTIBLE/UPRR EXPENSE					150100	0	
ESTIMATED PROJECT COST							150100

THE ABOVE FIGURES ARE ESTIMATES ONLY AND SUBJECT TO FLUCTUATION. IN THE EVENT OF AN INCREASE OR DECREASE IN THE COST OR QUANTITY OF MATERIAL OR LABOR REQUIRED, UPRR WILL BILL FOR ACTUAL CONSTRUCTION COSTS AT THE CURRENT EFFECTIVE RATE.

Material And Force Account Estimate

CITY OF ROUND ROCK

Estimate Creation Date: 7/9/2018 Number: 118046 Version: 1

Estimate Good Until 06/04/19

Location: AUSTIN SUB, SIMN, 144.31-161.79

Buy America: No

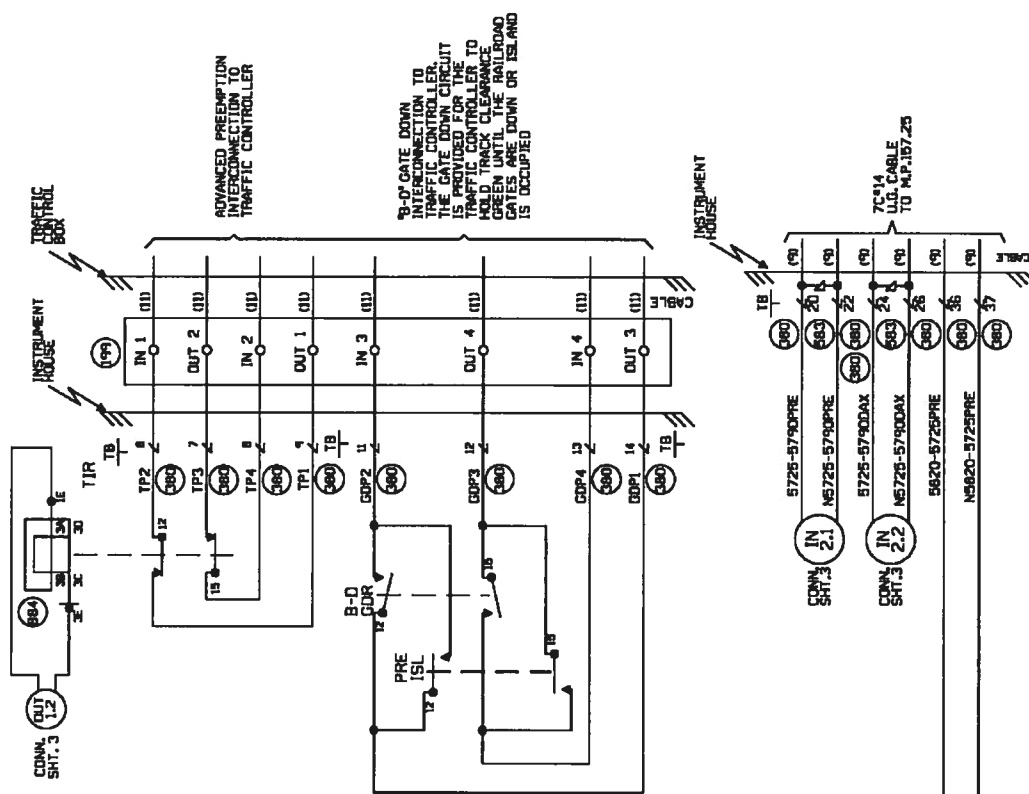
Description of Work: ROUND ROCK, TX BUSHY CREEK PLANT MP 157.90 AUSTIN SUBDIVISION DOT#439682D
WO#39753 PID#101921 100% RECOLLECTABLE

COMMENTS	Description	QTY	UOM	Unit Cost	LABOR	MATERIAL	TOTAL	UP 00%	Agncy 100%
SIGNAL									
	Xing - 1 Trk CWE w/Four Quad Gates	1	EA	192,474.00	67,200	125,274	192,474	0	192,474
MP 158.20	Xing - 2 Trk Remote CWE and House	1	EA	75,404.00	21,200	54,204	75,404	0	75,404
	Xing - Track Card (Main and Stand-by) New Cable	3	EA	12,889.00	18,000	20,667	38,667	0	38,667
	Xing - Sidelight	1	EA	907.00	0	907	907	0	907
MP 158.20	Xing - IXS Track Circuit	1	EA	14,951.00	5,536	9,415	14,951	0	14,951
	Xing - Dax Cable 1000'	5.5	EA	6,440.00	22,000	13,420	35,420	0	35,420
	Xing - Track Filter/Battery Choke	3	EA	240.00	0	720	720	0	720
	Xing - Contract Services for Preempt Cutover	1	LS	20,000.00	0	20,000	20,000	0	20,000
	Xing - Boring	1	LS	10,000.00	0	10,000	10,000	0	10,000
	Xing - Meter Service	1	LS	15,000.00	0	15,000	15,000	0	15,000
	Xing - Fill/Rock/Gravel	1	LS	20,000.00	0	20,000	20,000	0	20,000
	Xing - Location Removal (Gates)	1	LS	2,000.00	2,000	0	2,000	0	2,000
SIG FED W/ 190 55%	Xing - Labor Additive	1	LS	280,930.00	280,930	0	280,930	0	280,930
	Xing - Engineering Design	1	LS	11,495.00	11,495	0	11,495	0	11,495
Sub-Total =					428,361	289,607	717,968	0	717,968

Totals = 428,361 289,607 717,968 0 717,968

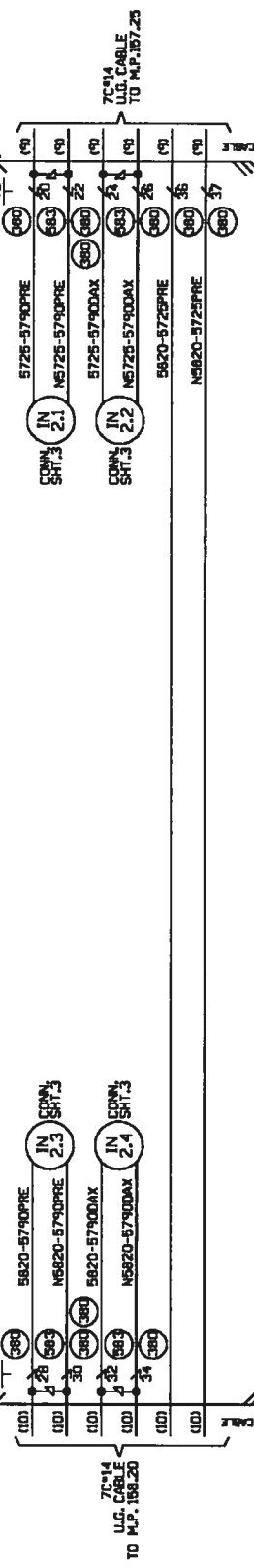
Grand Total = \$717,968

Please Note: The above figures are estimates only and are subject to fluctuation. In the event of an increase or decrease in the cost or amount of material or labor required, CITY OF ROUND ROCK will pay actual construction costs at the current rates effective thereof.



INSTRUMENT HOUSE

INSTRUMENT HOUSE



CABLE TABULATION
 CABLE NO. 9 7C*14 U.G.B.T. HOUSE TO M.P. 157.25
 CABLE NO. 10 7C*14 U.G.B.T. HOUSE TO M.P. 156.20
 CABLE NO. 11 U.G.B.T. HOUSE TO TRAFFIC CONTROLLER

UNION PACIFIC RAILROAD				NEW SHEET	
ROUND ROCK, TEXAS				DATE	1A
BRUSHY CREEK PLANT				DOT	4294820
AUSTIN SUBDIVISION				MP	157.50
BY: [Signature]				DATE	10/15/94
CHECKED BY: [Signature]				DATE	10/15/94
APPROVED BY: [Signature]				DATE	10/15/94
CABLE NO. 9 7C*14 U.G.B.T. HOUSE TO M.P. 157.25				DATE	10/15/94
CABLE NO. 10 7C*14 U.G.B.T. HOUSE TO M.P. 156.20				DATE	10/15/94
CABLE NO. 11 U.G.B.T. HOUSE TO TRAFFIC CONTROLLER				DATE	10/15/94

EXHIBIT D
TO
PUBLIC HIGHWAY AT-GRADE CROSSING AGREEMENT

CONTRACTOR'S
RIGHT OF ENTRY AGREEMENT

THIS AGREEMENT is made and entered into as of the _____ day of _____, 20_____,
by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("Railroad"); and
_____, a _____ corporation ("Contractor").

RECITALS:

Contractor has been hired by _____ to perform work relating to _____

_____ (the "work"), with all or a portion of such work to be performed on property of Railroad in the vicinity of Railroad's Milepost _____ on Railroad's _____ [Subdivision] [Branch] [at or near DOT No. _____] located at or near _____, in _____ County, State of _____, as such location is in the general location shown on the print marked **Exhibit A**, attached hereto and hereby made a part hereof, which work is the subject of a contract dated _____ between Railroad and _____.

Railroad is willing to permit Contractor to perform the work described above at the location described above subject to the terms and conditions contained in this Agreement

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between Railroad and Contractor, as follows:

ARTICLE 1 - DEFINITION OF CONTRACTOR.

For purposes of this Agreement, all references in this agreement to Contractor shall include Contractor's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority.

ARTICLE 2 - RIGHT GRANTED; PURPOSE.

Railroad hereby grants to Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the property described in the Recitals for the purpose of performing the work described in the Recitals above. The right herein granted to Contractor is limited to those portions of Railroad's property specifically described herein, or as designated by the Railroad Representative named in Article 4.

ARTICLE 3 - TERMS AND CONDITIONS CONTAINED IN EXHIBITS B, C AND D.

The terms and conditions contained in **Exhibit B**, **Exhibit C** and **Exhibit D**, attached hereto, are hereby made a part of this Agreement.

ARTICLE 4 - ALL EXPENSES TO BE BORNE BY CONTRACTOR; RAILROAD REPRESENTATIVE.

A. Contractor shall bear any and all costs and expenses associated with any work performed by Contractor, or any costs or expenses incurred by Railroad relating to this Agreement.

B. Contractor shall coordinate all of its work with the following Railroad representative or his or her duly authorized representative (the "Railroad Representative"):

C. Contractor, at its own expense, shall adequately police and supervise all work to be performed by Contractor and shall ensure that such work is performed in a safe manner as set forth in Section 7 of **Exhibit B**. The responsibility of Contractor for safe conduct and adequate policing and supervision of Contractor's work shall not be lessened or otherwise affected by Railroad's approval of plans and specifications involving the work, or by Railroad's collaboration in performance of any work, or by the presence at the work site of a Railroad Representative, or by compliance by Contractor with any requests or recommendations made by Railroad Representative.

ARTICLE 5 - SCHEDULE OF WORK ON A MONTHLY BASIS.

The Contractor, at its expense, shall provide on a monthly basis a detailed schedule of work to the Railroad Representative named in Article 4B above. The reports shall start at the execution of this Agreement and continue until this Agreement is terminated as provided in this Agreement or until the Contractor has completed all work on Railroad's property.

ARTICLE 6 - TERM; TERMINATION.

A. The grant of right herein made to Contractor shall commence on the date of this Agreement, and continue until _____, unless sooner terminated as herein provided, or at such time as Contractor has completed its work on Railroad's property, whichever is earlier. Contractor agrees to notify the Railroad Representative in writing when it has completed its work on Railroad's property.

B. This Agreement may be terminated by either party on ten (10) days written notice to the other party.

ARTICLE 7 - CERTIFICATE OF INSURANCE.

A. Before commencing any work, Contractor will provide Railroad with the (i) insurance binders, policies, certificates and endorsements set forth in **Exhibit C** of this Agreement, and (ii) the insurance endorsements obtained by each subcontractor as required under Section 12 of **Exhibit B** of this Agreement.

B. All insurance correspondence, binders, policies, certificates and endorsements shall be sent to:

Union Pacific Railroad Company

[Insert mailing address]

Attn: _____

Folder No. _____

ARTICLE 8 - DISMISSAL OF CONTRACTOR'S EMPLOYEE.

At the request of Railroad, Contractor shall remove from Railroad's property any employee of Contractor who fails to conform to the instructions of the Railroad Representative in connection with the work on Railroad's property, and any right of Contractor shall be suspended until such removal has occurred. Contractor shall indemnify Railroad against any claims arising from the removal of any such employee from Railroad's property.

ARTICLE 9- ADMINISTRATIVE FEE.

Upon the execution and delivery of this Agreement, Contractor shall pay to Railroad _____ Dollars (\$_____) as reimbursement for clerical, administrative and handling expenses in connection with the processing of this Agreement.

ARTICLE 10 - CROSSINGS; COMPLIANCE WITH MUTCD AND FRA GUIDELINES.

A. No additional vehicular crossings (including temporary haul roads) or pedestrian crossings over Railroad's trackage shall be installed or used by Contractor without the prior written permission of Railroad.

B. Any permanent or temporary changes, including temporary traffic control, to crossings must conform to the Manual of Uniform Traffic Control Devices (MUTCD) and any applicable Federal Railroad Administration rules, regulations and guidelines, and must be reviewed by the Railroad prior to any changes being implemented. In the event the Railroad is found to be out of compliance with federal safety regulations due to the Contractor's modifications, negligence, or any other reason arising from the Contractor's presence on the Railroad's property, the Contractor agrees to assume liability for any civil penalties imposed upon the Railroad for such noncompliance.

ARTICLE 11.- EXPLOSIVES.

Explosives or other highly flammable substances shall not be stored or used on Railroad's property without the prior written approval of Railroad.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement in duplicate as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

By: _____
Title: _____

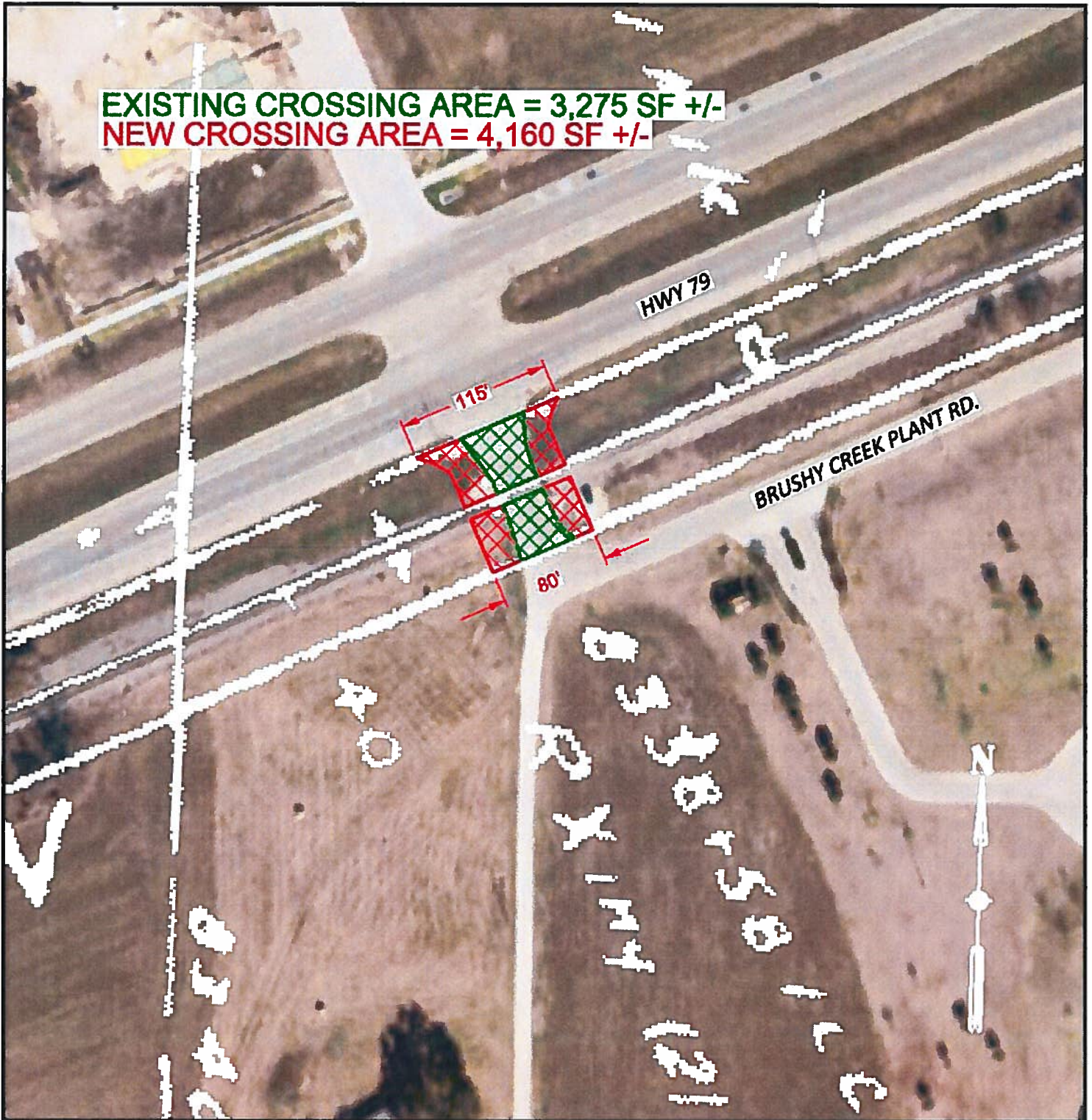
(Name of Contractor)

By: _____
Title: _____




EXHIBIT A

Exhibit A will be a print showing the general location of the work site.

EXISTING CROSSING AREA = 3,275 SF +/-
NEW CROSSING AREA = 4,160 SF +/-



LEGEND:

NEW CROSSING AREA..... 
EXISTING CROSSING AREA..... 
UPRRCO. R/W OUTLINED..... 

NOTE: BEFORE YOU BEGIN ANY WORK, SEE
AGREEMENT FOR FIBER OPTIC PROVISIONS.

EXHIBIT "A"

UNION PACIFIC RAILROAD COMPANY

ROUND ROCK, WILLIAMSON COUNTY, TX

M.P. 157.90 - AUSTIN SUB.

MAP IGN TX V-7B / 10

SCALE: 1" = 100'

OFFICE OF REAL ESTATE

OMAHA, NEBRASKA DATE: 3/1/2019

RRM FILE: 00694-81

CADD
FILENAME 0069481.DGN

SCAN
FILENAME 0069481_+x1286.PNG

EXHIBIT B
TO
CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

Section 1. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.

A. Contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of Contractor commencing its work and at least thirty (30) working days in advance of proposed performance of any work by Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such thirty (30)-day notice, the Railroad Representative will determine and inform Contractor whether a flagman need be present and whether Contractor needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill Contractor for such expenses incurred by Railroad, unless Railroad and a federal, state or local governmental entity have agreed that Railroad is to bill such expenses to the federal, state or local governmental entity. If Railroad will be sending the bills to Contractor, Contractor shall pay such bills within thirty (30) days of Contractor's receipt of billing. If Railroad performs any flagging, or other special protective or safety measures are performed by Railroad, Contractor agrees that Contractor is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

B. The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Contractor (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

C. Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Contractor may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Contractor must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Contractor will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional thirty (30) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED

A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be

freely done at any time or times by Railroad without liability to Contractor or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (whether recorded or unrecorded and including those in favor of licensees and lessees of Railroad's property, and others) and the right of Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

Section 3. NO INTERFERENCE WITH OPERATIONS OF RAILROAD AND ITS TENANTS.

A. Contractor shall conduct its operations so as not to interfere with the continuous and uninterrupted use and operation of the railroad tracks and property of Railroad, including without limitation, the operations of Railroad's lessees, licensees or others, unless specifically authorized in advance by the Railroad Representative. Nothing shall be done or permitted to be done by Contractor at any time that would in any manner impair the safety of such operations. When not in use, Contractor's machinery and materials shall be kept at least fifty (50) feet from the centerline of Railroad's nearest track, and there shall be no vehicular crossings of Railroads tracks except at existing open public crossings.

B. Operations of Railroad and work performed by Railroad personnel and delays in the work to be performed by Contractor caused by such railroad operations and work are expected by Contractor, and Contractor agrees that Railroad shall have no liability to Contractor, or any other person or entity for any such delays. The Contractor shall coordinate its activities with those of Railroad and third parties so as to avoid interference with railroad operations. The safe operation of Railroad train movements and other activities by Railroad takes precedence over any work to be performed by Contractor.

Section 4. LIENS.

Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of Railroad for any such work performed. Contractor shall indemnify and hold harmless Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished. If Contractor fails to promptly cause any lien to be released of record, Railroad may, at its election, discharge the lien or claim of lien at Contractor's expense.

Section 5. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

A. Fiber optic cable systems may be buried on Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall telephone Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on Railroad's property to be used by Contractor. If it is, Contractor will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, for relocation or other protection of the fiber optic cable. Contractor shall not commence any work until all such protection or relocation (if applicable) has been accomplished.

B. In addition to other indemnity provisions in this Agreement, Contractor shall indemnify, defend and hold Railroad harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of any act or omission of Contractor, its agents and/or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on Railroad's property, and/or (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Railroad's property. Contractor shall not have or seek recourse against Railroad for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Railroad's property or a customer or user of services of the fiber optic cable on Railroad's property.

Section 6. PERMITS - COMPLIANCE WITH LAWS.

In the prosecution of the work covered by this Agreement, Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

Section 7. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work performed by Contractor. Contractor shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. Contractor shall at a minimum comply with Railroad's safety standards listed in **Exhibit D**, hereto attached, to ensure uniformity with the safety standards followed by Railroad's own forces. As a part of Contractor's safety responsibilities, Contractor shall notify Railroad if Contractor determines that any of Railroad's safety standards are contrary to good safety practices. Contractor shall furnish copies of **Exhibit D** to each of its employees before they enter the job site.

B. Without limitation of the provisions of paragraph A above, Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

C. Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. Contractor shall promptly notify Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. Contractor shall have a nondelegable duty to control its employees while they are on the job site or any other property of Railroad, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.

D. If and when requested by Railroad, Contractor shall deliver to Railroad a copy of Contractor's safety plan for conducting the work (the "Safety Plan"). Railroad shall have the right, but not the obligation, to require Contractor to correct any deficiencies in the Safety Plan. The terms of this Agreement shall control if there are any inconsistencies between this Agreement and the Safety Plan.

Section 8. INDEMNITY.

A. To the extent not prohibited by applicable statute, Contractor shall indemnify, defend and hold harmless Railroad, its affiliates, and its and their officers, agents and employees (individually an "Indemnified Party" or collectively "Indemnified Parties") from and against any and all loss, damage, injury, liability, claim, demand, cost or expense (including, without limitation, attorney's, consultant's and expert's fees, and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, any Indemnified Party, Contractor, or any employee of Contractor or of any Indemnified Party) arising out of or in any manner connected with (i) any work performed by Contractor, or (ii) any act or omission of Contractor, its officers, agents or employees, or (iii) any breach of this Agreement by Contractor.

B. The right to indemnity under this Section 8 shall accrue upon occurrence of the event giving rise to the Loss, and shall apply regardless of any negligence or strict liability of any Indemnified Party, except where the Loss is caused by the sole active negligence of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence of any Indemnified Party shall not bar the recovery of any other Indemnified Party.

C. Contractor expressly and specifically assumes potential liability under this Section 8 for claims or actions brought by Contractor's own employees. Contractor waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify the Indemnified Parties under this Section 8. Contractor acknowledges that this waiver was mutually negotiated by the parties hereto.

D. No court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employers' Liability Act against a party to this Agreement may be relied upon or used by Contractor in any attempt to assert liability against any Indemnified Party.

E. The provisions of this Section 8 shall survive the completion of any work performed by Contractor or the termination or expiration of this Agreement. In no event shall this Section 8 or any other provision of this Agreement be deemed to limit any liability Contractor may have to any Indemnified Party by statute or under common law.

Section 9. RESTORATION OF PROPERTY.

In the event Railroad authorizes Contractor to take down any fence of Railroad or in any manner move or disturb any of the other property of Railroad in connection with the work to be performed by Contractor, then in that event Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed. Contractor shall remove all of Contractor's tools, equipment, rubbish and other materials from Railroad's property promptly upon completion of the work, restoring Railroad's property to the same state and condition as when Contractor entered thereon.

Section 10. WAIVER OF DEFAULT.

Waiver by Railroad of any breach or default of any condition, covenant or agreement herein contained to be kept, observed and performed by Contractor shall in no way impair the right of Railroad to avail itself of any remedy for any subsequent breach or default.

Section 11. MODIFICATION - ENTIRE AGREEMENT.

No modification of this Agreement shall be effective unless made in writing and signed by Contractor and Railroad. This Agreement and the exhibits attached hereto and made a part hereof constitute the entire understanding between Contractor and Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work to be performed by Contractor.

Section 12. ASSIGNMENT - SUBCONTRACTING.

Contractor shall not assign or subcontract this Agreement, or any interest therein, without the written consent of the Railroad. Contractor shall be responsible for the acts and omissions of all subcontractors. Before Contractor commences any work, the Contractor shall, except to the extent prohibited by law; (1) require each of its subcontractors to include the Contractor as "Additional Insured" in the subcontractor's Commercial General Liability policy and Business Automobile policies with respect to all liabilities arising out of the subcontractor's performance of work on behalf of the Contractor by endorsing these policies with ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage; (2) require each of its subcontractors to endorse their Commercial General Liability Policy with "Contractual Liability Railroads" ISO Form CG 24 17 10 01 (or a substitute form providing equivalent coverage) for the job site; and (3) require each of its subcontractors to endorse their Business Automobile Policy with "Coverage For Certain Operations In Connection With Railroads" ISO Form CA 20 70 10 01 (or a substitute form providing equivalent coverage) for the job site.

EXHIBIT C
TO
CONTRACTOR'S
RIGHT OF ENTRY AGREEMENT

Union Pacific Railroad Company
Insurance Provisions For
Contractor's Right of Entry Agreement

Contractor shall, at its sole cost and expense, procure and maintain during the course of the Project and until all Project work on Railroad's property has been completed and the Contractor has removed all equipment and materials from Railroad's property and has cleaned and restored Railroad's property to Railroad's satisfaction, the following insurance coverage:

- A. **Commercial General Liability** insurance. Commercial general liability (CGL) with a limit of not less than \$5,000,000 each occurrence and an aggregate limit of not less than \$10,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, which must be stated on the certificate of insurance:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.
- Designated Construction Project(s) General Aggregate Limit ISO Form CG 25 03 03 97 (or a substitute form providing equivalent coverage) showing the project on the form schedule.

- B. **Business Automobile Coverage** insurance. Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less \$5,000,000 for each accident and coverage must include liability arising out of any auto (including owned, hired and non-owned autos).

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

- Coverage For Certain Operations In Connection With Railroads ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Property" as the Designated Job Site.
- Motor Carrier Act Endorsement - Hazardous materials clean up (MCS-90) if required by law.

- C. **Workers' Compensation and Employers' Liability** insurance. Coverage must include but not be limited to:
- Contractor's statutory liability under the workers' compensation laws of the state where the work is being performed.
 - Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Contractor is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy must contain the following endorsement, which must be stated on the certificate of insurance:

- Alternate Employer endorsement ISO form WC 00 03 01 A (or a substitute form providing equivalent coverage) showing Railroad in the schedule as the alternate employer (or a substitute form providing equivalent coverage).

- D. **Railroad Protective Liability** insurance. Contractor must maintain "Railroad Protective Liability" (RPL) insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Railroad as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to

this Agreement and shall describe all WORK or OPERATIONS performed under this agreement. Contractor shall provide this Agreement to Contractor's insurance agent(s) and/or broker(s) and Contractor shall instruct such agent(s) and/or broker(s) to procure the insurance coverage required by this Agreement. A BINDER STATING THE POLICY IS IN PLACE MUST BE SUBMITTED TO RAILROAD BEFORE THE WORK MAY COMMENCE AND UNTIL THE ORIGINAL POLICY IS FORWARDED TO UNION PACIFIC RAILROAD.

- E. **Umbrella or Excess** insurance. If Contractor utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.
- F. **Pollution Liability** insurance. Pollution liability coverage must be included when the scope of the work as defined in the Agreement includes installation, temporary storage, or disposal of any "hazardous" material that is injurious in or upon land, the atmosphere, or any watercourses; or may cause bodily injury at any time.

If required, coverage may be provided in separate policy form or by endorsement to Contractors CGL or RPL. Any form coverage must be equivalent to that provided in ISO form CG 24 15 "Limited Pollution Liability Extension Endorsement" or CG 28 31 "Pollution Exclusion Amendment" with limits of at least \$5,000,000 per occurrence and an aggregate limit of \$10,000,000.

If the scope of work as defined in this Agreement includes the disposal of any hazardous or non-hazardous materials from the job site, Contractor must furnish to Railroad evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of \$1,000,000 per loss, and an annual aggregate of \$2,000,000.

Other Requirements

- G. All policy(ies) required above (except worker's compensation and employers liability) must include Railroad as "Additional Insured" using ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage). The coverage provided to Railroad as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 26, and CA 20 48 provide coverage for Railroad's negligence whether sole or partial, active or passive, and shall not be limited by Contractor's liability under the indemnity provisions of this Agreement.
- H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless the law governing this Agreement prohibits all punitive damages that might arise under this Agreement.
- I. Contractor waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Railroad and its agents, officers, directors and employees. This waiver must be stated on the certificate of insurance.
- J. Prior to commencing the work, Contractor shall furnish Railroad with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this Agreement.
- K. All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state where the work is being performed.
- L. The fact that insurance is obtained by Contractor or by Railroad on behalf of Contractor will not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad from Contractor or any third party will not be limited by the amount of the required insurance coverage.

EXHIBIT D
TO
CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

MINIMUM SAFETY REQUIREMENTS

The term "employees" as used herein refer to all employees of Contractor as well as all employees of any subcontractor or agent of Contractor.

I. Clothing

- A. All employees of Contractor will be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision, hearing, or free use of their hands or feet.

Specifically, Contractor's employees must wear:

- (i) Waist-length shirts with sleeves.
- (ii) Trousers that cover the entire leg. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching.
- (iii) Footwear that covers their ankles and has a defined heel. Employees working on bridges are required to wear safety-toed footwear that conforms to the American National Standards Institute (ANSI) and FRA footwear requirements.

- B. Employees shall not wear boots (other than work boots), sandals, canvas-type shoes, or other shoes that have thin soles or heels that are higher than normal.

- C. Employees must not wear loose or ragged clothing, neckties, finger rings, or other loose jewelry while operating or working on machinery.

II. Personal Protective Equipment

Contractor shall require its employees to wear personal protective equipment as specified by Railroad rules, regulations, or recommended or requested by the Railroad Representative.

- (i) Hard hat that meets the American National Standard (ANSI) Z89.1 – latest revision. Hard hats should be affixed with Contractor's company logo or name.
- (ii) Eye protection that meets American National Standard (ANSI) for occupational and educational eye and face protection, Z87.1 – latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, etc.
- (iii) Hearing protection, which affords enough attenuation to give protection from noise levels that will be occurring on the job site. Hearing protection, in the form of plugs or muffs, must be worn when employees are within:
 - 100 feet of a locomotive or roadway/work equipment
 - 15 feet of power operated tools
 - 150 feet of jet blowers or pile drivers
 - 150 feet of retarders in use (when within 10 feet, employees must wear dual ear protection – plugs and muffs)
 -
- (iv) Other types of personal protective equipment, such as respirators, fall protection equipment, and face shields, must be worn as recommended or requested by the Railroad Representative.

III. On Track Safety

Contractor is responsible for compliance with the Federal Railroad Administration's Roadway Worker Protection regulations – 49CFR214, Subpart C and Railroad's On-Track Safety rules. Under 49CFR214, Subpart C, railroad contractors are responsible for the training of their employees on such regulations. In addition to the instructions contained in Roadway Worker Protection regulations, all employees must:

- (i) Maintain a distance of twenty-five (25) feet to any track unless the Railroad Representative is present to authorize movements.
- (ii) Wear an orange, reflectorized workwear approved by the Railroad Representative.
- (iii) Participate in a job briefing that will specify the type of On-Track Safety for the type of work being performed. Contractor must take special note of limits of track authority, which tracks may or may not be fouled, and clearing the track. Contractor will also receive special instructions relating to the work zone around machines and minimum distances between machines while working or traveling.

IV. Equipment

- A. It is the responsibility of Contractor to ensure that all equipment is in a safe condition to operate. If, in the opinion of the Railroad Representative, any of Contractor's equipment is unsafe for use, Contractor shall remove such equipment from Railroad's property. In addition, Contractor must ensure that the operators of all equipment are properly trained and competent in the safe operation of the equipment. In addition, operators must be:
 - Familiar and comply with Railroad's rules on lockout/tagout of equipment.
 - Trained in and comply with the applicable operating rules if operating any hy-rail equipment on-track.
 - Trained in and comply with the applicable air brake rules if operating any equipment that moves rail cars or any other railbound equipment.
- B. All self-propelled equipment must be equipped with a first-aid kit, fire extinguisher, and audible back-up warning device.
- C. Unless otherwise authorized by the Railroad Representative, all equipment must be parked a minimum of twenty-five (25) feet from any track. Before leaving any equipment unattended, the operator must stop the engine and properly secure the equipment against movement.
- D. Cranes must be equipped with three orange cones that will be used to mark the working area of the crane and the minimum clearances to overhead powerlines.

V. General Safety Requirements

- A. Contractor shall ensure that all waste is properly disposed of in accordance with applicable federal and state regulations.
- B. Contractor shall ensure that all employees participate in and comply with a job briefing conducted by the Railroad Representative, if applicable. During this briefing, the Railroad Representative will specify safe work procedures, (including On-Track Safety) and the potential hazards of the job. If any employee has any questions or concerns about the work, the employee must voice them during the job briefing. Additional job briefings will be conducted during the work as conditions, work procedures, or personnel change.
- C. All track work performed by Contractor meets the minimum safety requirements established by the Federal Railroad Administration's Track Safety Standards 49CFR213.
- D. All employees comply with the following safety procedures when working around any railroad track:

- (i) Always be on the alert for moving equipment. Employees must always expect movement on any track, at any time, in either direction.
 - (ii) Do not step or walk on the top of the rail, frog, switches, guard rails, or other track components.
 - (iii) In passing around the ends of standing cars, engines, roadway machines or work equipment, leave at least 20 feet between yourself and the end of the equipment. Do not go between pieces of equipment if the opening is less than one car length (50 feet).
 - (iv) Avoid walking or standing on a track unless so authorized by the employee in charge.
 - (v) Before stepping over or crossing tracks, look in both directions first.
 - (vi) Do not sit on, lie under, or cross between cars except as required in the performance of your duties and only when track and equipment have been protected against movement.
- E. All employees must comply with all federal and state regulations concerning workplace safety.

EXHIBIT E

AREMA UNIT STATEMENT OF RAILROAD HIGHWAY GRADE CROSSING SIGNALS ESTIMATED MAINTENANCE COSTS



BUILDING AMERICA®

FOR PID # 101921
BY THE UNION PACIFIC RAILROAD

STREET	BUSHY CREEK PLANT
TOWN	ROUND ROCK, TX
MILEPOST	157.9
SUBDIVISION	AUSTIN
AAR/DOT NO.	439682D
WORK ORDER#	39753

DESCRIPTION	VALUE	QUANTITY	UNITS
NON-CODED TRK. CIRCUIT (Standalone AFTAC or Ring 10)	2	0	0
SUPERIMPOSED CIRCUIT(AFTAC) / DETECTION LOOP	2	0	0
HIGHWAY GRADE CROSSING SIGNAL (FRONT LIGHTS)	2	4	8
ADDITIONAL PAIR OF LIGHTS (OTHER THAN FRONT LIGHTS)	1	5	5
GATE MECHANISM, AUTOMATIC WITH ARM UP TO 26 FT	8	4	32
GATE MECHANISM, AUTOMATIC WITH ARM OVER 26 FT	10	0	0
GCP/HXP (constant warning device, per track circuit)	15	1	15
EXIT GATE MANAGEMENT SYSTEM RACK*	10	0	0
MOVEMENT DETECTOR (PMD)	6	0	0
MOVEMENT DETECTOR (STANDBY UNIT)	3	0	0
RADIO DATA LINK, PER UNIT	1	0	0
PREEMPTION CIRCUIT	2	1	2
DATA RECORDER	1	0	0
REMOTE MONITORING DEVICE (SEAR, ETC)*	2	1	2
BONDED RAIL JOINTS (per mile, each rail, single bonded)	1	0	0
BATTERY AND CHARGER (per set)	1	3	3
TOTAL UNIT COUNT			67
PAVEMENT RESTORATION COSTS			(Actual)
Annual Maintenance Cost at \$170/Unit			\$11,390

*UP supplied Unit Value

July 6, 2018



City of Round Rock

Agenda Item Summary

Agenda Number: H.10

Title: Consider a resolution determining that Competitive Sealed Proposal is the delivery method which provides the best value for the Downtown Parklet Project.

Type: Resolution

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Gary Hudder, Transportation Director

Cost:

Indexes:

Attachments: Resolution

Department: Transportation Department

Text of Legislative File 2019-0156

The Downtown parklets project will construct landscaping, pedestrian, sidewalk, and lighting improvements in six parklets on Main Street from Mays to Sheppard Street. The project contains multiple unique components and will require potential bidders to demonstrate competency in each of the project components to provide a quality product on schedule. Due to the complexity, scheduling, and unique components of the project, Transportation is requesting the Competitive Sealed Proposal delivery method to bid this project. By using this method, the City will be able to obtain the most qualified contractor, which will in turn provide the best value to the City.

RESOLUTION NO. R-2019-0156

WHEREAS, Texas Government Code, Chapter 2269 allows governmental entities to use certain methods other than competitive bidding in entering into contracts for construction of facilities, as defined therein, and

WHEREAS, the City of Round Rock is considering using an alternative method other than competitive bidding in entering into a contract for the Downtown Parklet Project (“Project”) located on Main Street in Downtown Round Rock, Texas, and

WHEREAS, the statute requires that a project-by-project determination be made as to what method provides the best value for the governmental entity in relation to a particular project, and

WHEREAS, the Council has determined that the Project would be best served by utilizing the “Competitive Sealed Proposal” method, and

WHEREAS, Texas Government Code, Section 2269.056(a) mandates the “governing body of a governmental entity that considers a construction contract using a method authorized by this chapter other than competitive bidding must, before advertising, determine which method provides the best value for the governmental entity,” and

WHEREAS, the City Council desires to comply with all requirements of the statute, Now Therefore

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

In accordance with Texas Government Code §2269.056(a), the Council has determined that “Competitive Sealed Proposal” is the delivery method which provides the best value for the City for the Downtown Parklet Project located on Main Street in Downtown Round Rock, Texas.

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 11th day of April, 2019.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk



City of Round Rock

Agenda Item Summary

Agenda Number: I.1

Title: Consider an ordinance annexing 7.499 acres of land located south of University Boulevard and east of Sunrise Road. (First Reading)*

Type: Ordinance

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Brad Wiseman, Planning and Development Services Director

Cost:

Indexes:

Attachments: Ordinance, Exhibit A, Exhibit B, Location Map 7.5 acre tract, Aerial Photo 7.5 acre tract

Department: Planning and Development Services Department

Text of Legislative File 2019-0151

The subject tract is in the City's ETJ (Extraterritorial Jurisdiction) and the property owner, A&W Limited Partnership, has submitted a petition for voluntary annexation. The property is subject to a previously City Council approved annexation development agreement. This agreement requires voluntary annexation into the City prior to development occurring on this vacant parcel. The 7.5-acre property is located at 651 University Boulevard. Municipal water and sewer services will be available to the property upon annexation. Accompanying requests for original zoning to C-1a (General Commercial -Limited) and a general plan amendment are separate agenda items.

ORDINANCE NO. O-2019-0151

AN ORDINANCE ANNEXING ADJACENT AND CONTIGUOUS TERRITORY TO THE CITY OF ROUND ROCK, TEXAS, TO WIT: 7.499 ACRES OF LAND, OUT OF THE N.B. ANDERSON SURVEY, ABSTRACT NO. 29, IN WILLIAMSON COUNTY; FINDING THAT ALL NECESSARY AND REQUIRED LEGAL CONDITIONS HAVE BEEN SATISFIED; PROVIDING THAT SUCH AREA SHALL BECOME A PART OF THE CITY AND THAT THE OWNERS AND INHABITANTS THEREOF SHALL BE ENTITLED TO THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BE BOUND BY THE ACTS AND ORDINANCES NOW IN EFFECT AND TO BE HEREINAFTER ADOPTED; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE; PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES OR RESOLUTIONS.

WHEREAS, the City is a duly constituted Home Rule City pursuant to Chapter 9, Local Government Code, as amended, and

WHEREAS, pursuant to Section 43.028, Local Government Code, the owners of a 7.499-acre tract of land out of the N.B. Anderson Survey, Abstract No. 29, in Williamson County (the "Property"), more fully described in Exhibit "A", have petitioned the City Council in writing to annex the Property, and

WHEREAS, the petition for annexation is attached as Exhibit "B" hereto and incorporated herein for all purposes, and

WHEREAS, the petition was filed more than five (5) days and less than thirty (30) days before the City Council heard the petition and the arguments for and against the annexation, and

WHEREAS, the Property is (1) one-half mile or less in width; (2) contiguous to the City; and (3) vacant and without residents, or on which less than three (3) qualified voters reside, and

WHEREAS, the City Council has determined that all requirements of Section 43.028, Local Government Code have been complied with and hereby consider it appropriate to grant the petition for annexation, Now Therefore

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

I.

That all of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

II.

That the City Council has heard the arguments for and against the annexation and has determined to grant the petition for annexation.

III.

That the property described in Exhibit "A" attached hereto and incorporated herein for all purposes, be and is hereby annexed and brought within the corporate limits of the City of Round Rock, Williamson County, Texas, and same is hereby made an integral part hereof.

IV.

That the owners and future inhabitants of the area herein annexed be entitled to all of the rights and privileges of other citizens and property owners of said City and are hereby bound by all acts, ordinances and all other legal action now in full force and effect and all those which may be hereafter adopted.

V.

That the official map and boundaries of the City, heretofore adopted and amended be and is hereby amended so as to include the aforementioned territory as part of the City of Round Rock, Texas.

VI.

That the City Manager is hereby directed and authorized to perform or cause to be performed all acts necessary to correct the official map of the City to add the territory hereby annexed as required by law.

VII.

That this Ordinance shall become effective after its passage.

VIII.

That the City Clerk is hereby directed and authorized to file a certified copy of this Ordinance in the Office of the County Clerk of Williamson County, Texas.

IX.

If any section, subsection, sentence, phrase, or word of this Ordinance be found to be illegal, invalid or unconstitutional or if any portion of said property is incapable of being annexed by the City, for any reason whatsoever, the adjudication shall not affect any other section, sentence, phrase, word, paragraph or provision of this Ordinance or the application of any other section, sentence, phrase, word, paragraph or provision of any other Ordinance of the City. The City Council declares that it would have adopted the valid portions and applications of this Ordinance and would have annexed the valid property without the invalid part, and to this end the provisions of this Ordinance are declared to be severable.

X.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance 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.

Alternative 1.

By motion duly made, seconded and passed with an affirmative vote of all the Council members present, the requirement for reading this ordinance on two separate days was dispensed with.

READ, PASSED, and ADOPTED on first reading this _____ day of _____, 2019.

Alternative 2.

READ and APPROVED on first reading this the _____ day of _____, 2019.

READ, APPROVED and ADOPTED on second reading this the _____ day of _____, 2019.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk

EXHIBIT

"A"

METES AND BOUNDS DESCRIPTION

FOR A 7.499 ACRE TRACT OF LAND, MORE OR LESS, OUT OF THE N.B ANDERSON SURVEY, ABSTRACT NO. 29, IN WILLIAMSON COUNTY, TEXAS, BEING ALL OF THE CALLED 7.40 ACRE TRACT OF LAND (TRACT I) AND ALL OF THE CALLED 0.108 ACRE TRACT OF LAND (TRACT II), BOTH TRACTS OF LAND CONVEYED TO A & W LIMITED PARTNERSHIP, AS RECORDED IN DOCUMENT NO. 2008069340, OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS. SAID 7.499 ACRE TRACT OF LAND BEING SURVEYED ON THE GROUND BY DIAMOND SURVEYING DURING THE MONTH OF SEPTEMBER 2018, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron rod found on the southwest corner of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being on an angle point in the northerly boundary line of LOT 1, BLOCK A of BARTZ PHASE TWO, a subdivision recorded in Document No. 2015104762, Official Public Records of Williamson County, Texas, for the southwest corner and **POINT OF BEGINNING** hereof;

THENCE, **N 19°07'57" W** with west boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being with the northerly boundary line of said LOT 1 BLOCK A, BARTZ PHASE TWO, for a distance of **207.51 feet** to an iron rod found with cap marked "Austin Surveyors" on the apparent southerly right-of-way line of C.R. 114 (A.K.A. UNIVERSITY BOULEVARD) (right-of-way width varies), same being on an angle point in the northerly boundary line of said LOT 1, BLOCK A, BARTZ PHASE TWO, same being on the southeast corner of the called 0.106 acre tract of land conveyed to COUNTY OF WILLIAMSON, recorded in Volume 1694, Page 179, Official Records of Williamson County, Texas, from which an iron rod found with cap marked "Stan Tec" on the northwest corner of said LOT 1, BLOCK A, BARTZ PHASE TWO, bears S 68°07'51" W for a distance of 97.61 feet,

THENCE, **N 19°07'57" W** continuing with said west boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being with the east boundary line of said 0.106 COUNTY OF WILLIAMSON tract, same being through the interior of the apparent right-of-way of said C.R. 114, for a distance of **28.98 feet** to a PK nail set in asphalt roadway on the northwest corner of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being on the northeast corner of said 0.106 acre COUNTY OF WILLIAMSON tract, for the northwest corner hereof;

THENCE, **N 70°50'45" E** with the north boundary line of said A & W LIMITED PARTNERSHIP tract, same being through said interior of the apparent right-of-way of C.R. 114, for a distance of **219.23 feet** to a 1/2" iron rod found on an angle point in the said north boundary line of A & W LIMITED PARTNERSHIP tract, same being the west corner of said 0.108 acre A & W LIMITED PARTNERSHIP tract, same being on a point in the southerly right-of-way line of said C.R. 114, for the beginning of a curve to the left hereof;

THENCE, with the north boundary line of said 0.108 acre A & W LIMITED PARTNERSHIP tract, same being with the with the said southerly right-of-way line of said C.R. 114, with said curve to the left, said curve having an arc length of **463.64 feet**, a radius of **2112.42 feet**, a central angle of **12°34'32"**, and a chord which bears **N 54°06'41" E** for a distance of **462.71 feet** to a 1/2" iron rod found on the east corner of said 0.108 acre A & W LIMITED PARTNERSHIP TRACT, same being on an angle point in the said north boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, for the end of this curve;

THENCE, with the said north boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being through the said interior of the apparent right-of-way of said C.R. 114, the following two (2) courses and distances:

1. **N 47°06'08" E** for a distance of **71.00 feet** to a 1/2" iron rod set with cap marked "Diamond Surveying" for an angle point hereof;
2. **N 48°14'40" E** for a distance of **345.30 feet** to a PK nail set in concrete on the northeast corner of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being on the northwest corner of a called 0.035 acre tract of land conveyed to the COUNTY OF WILLIAMSON, recorded in said Volume 1694, Page 179, for the northeast corner hereof;

THENCE, **S 03°34'48" E** with the east boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being through said interior of the apparent right-of-way of C.R. 114, same being with the west boundary line of said 0.035 acre COUNTY OF WILLIAMSON tract, for a distance of **17.18 feet** to an iron rod found with cap marked "Austin Surveyors" on the southwest corner of said 0.035 COUNTY OF WILLIAMSON tract, same being on an angle point in the northerly boundary line of a LOT 1, BLOCK B, of BARTZ PHASE ONE, a subdivision recorded in Document No. 2013047200, Official Public Records of Williamson County, Texas, same being on a point in the said southerly right-of-way line of said C.R. 114, from which an iron rod found with cap marked "RPLS 1847" on the southeast corner of said 0.035 acre COUNTY OF WILLIAMSON tract, same being on the northeast corner of said LOT 1, BLOCK B, BARTZ PHASE ONE, same being on a point in said southerly right-of-way line of said C.R. 114, bears **N 56°07'38" E** for a distance of 56.39 feet;

THENCE, **S 03°34'48" E** continuing with said east boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being with said northerly boundary line of said LOT 1, BLOCK B, BARTZ PHASE ONE, for a distance of **558.63 feet** to a 1/2" iron rod set with cap marked "Diamond Surveying" for the southeast corner of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being on an angle point in the said westerly boundary line of said LOT 1, BLOCK B, BARTZ PHASE ONE, for the southeast corner hereof;

THENCE, **S 72°21'56" W** with the south boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, in part with the said westerly boundary line of LOT 1, BLOCK B, BARTZ PHASE ONE, and in part with the northerly boundary line of aforementioned LOT 1, BLOCK A, BARTZ PHASE TWO, passing at a distance of 98.43 feet, an iron rod found with cap marked "Chaparral" on an angle point in said westerly boundary line of LOT 1, BLOCK B, BARTZ PHASE ONE, same being on the northeast corner of said LOT 1, BLOCK A, BARTZ PHASE TWO, continuing for an additional distance of 793.49 feet, for a total distance of **891.92 feet** to the **POINT OF BEGINNING** and containing 7.499 acres of land more or less. Of which 0.126 acre of land lies within the apparent right-of-way of C.R. 114.

Bearing Basis: NAD-83, Texas Central Zone (4203) State Plane System. Distances shown hereon are surface distances based on a combined surface adjustment factor of 1.00012.

A drawing has been prepared to accompany this metes and bounds description.

<> *DIAMOND SURVEYING, INC.*
116 SKYLINE ROAD, GEORGETOWN, TX 78628
(512) 931-3100
T.B.P.L.S. FIRM NO. 10006900

Shane Shafer 11-5-18
SHANE SHAFER, R.P.L.S. NO. 5281 DATE



Z:\CSW DEVELOPMENT\UNIVERSITY BLVD 651_ANNEXATION AND ZONING BOUNDARY\11-5-18 651 UNIVERSITY BLVD 7.499 AC.
M&B.docx

FOR A 7.499 ACRE TRACT OF LAND, MORE OR LESS, OUT OF THE N.B ANDERSON SURVEY, ABSTRACT NO. 26, IN WILLIAMSON COUNTY, TEXAS, BEING ALL OF THE CALLED 7.40 ACRE TRACT OF LAND (TRACT I) AND ALL OF THE CALLED 0.108 ACRE TRACT OF LAND (TRACT II), BOTH TRACTS OF LAND CONVEYED TO A & W LIMITED PARTNERSHIP, AS RECORDED IN DOCUMENT NO. 2008069340, OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS.

LEGEND

1) BEARING BASIS: STATE PLANE
COORDINATE SYSTEM, NAD-83, TEXAS
CENTRAL(4203). DISTANCES SHOWN
HEREON ARE SURFACE DISTANCES BASED
ON A COMBINED SURFACE ADJUSTMENT
FACTOR OF 1.00012.

2) THE TRACT SHOWN HEREON LIES WITH ZONE "X" UNSHADED, AREAS DETERMINED TO BE OUTSIDE THE 0.2" ANNUAL CHANCE FLOODPLAIN, ACCORDING TO THE FLOOD INSURANCE RATE MAP NO. 48491C0485E AND MAP NO. 48491C0495E DATED SEPTEMBER 26, 2008 FOR WILLIAMSON COUNTY, TEXAS.

3) ALL DOCUMENTS LISTED HEREON ARE
RECORDED IN THE OFFICE OF THE
COUNTY CLERK OF WILLIAMSON COUNTY,
TEXAS.

SCALE: 1"= 200'

TERAVISTA SECTION 11
DOC. NO. 2000084946
O.P.R.W.C.T.

TERAVISTA SECTION 11
DOC. NO. 2000084946
O.P.R.W.C.T.

LOT 1 BLOCK B
OAKMONT CROSSING
SECTION ONE
CAB. H SL. 311
P.B.W.C.T.

SUBJECT TRACT
7.499 ACRES

72°21'56" W

0.100
NO. 200806
W.C.T.
A & W LIMITED PARTNERSHIP
CALLED 7.40 ACRES (TRACT
DOC. NO. 2008069340
Q.P.R.W.C.T.
98.4

A & W LIMITED
CALLED 7.40 ACRES (1)
DOC. NO. 2008069340
O.P.R.W.C.T.

DS
71.00
47°06'08" E
COMMERCIAL
PARTNERSHIP
(TRACT II)

LOT 39
OPEN SPACE

C.R. 114 (A.K.A.) UNIVERSITY
ASPHALT ROADWAY
R.O.W. WIDTH VARIES

P.O.B.

STATE OF TEXAS
REGISTERED
★
SHANE SHAFER
5281
PROFESSIONAL
LAND SURVEYOR

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	2112.42'	463.64'	12°34'32"	N 54°06'41" E	462.71'
C2	2112.42'	97.62'	02°38'52"	S 68°07'51" W	97.61'
C3	1968.48'	56.39'	01°38'29"	N 56°07'38" E	56.39'

NUM	DISTANCE	BEARING
L1	28.98'	N 19°07'57" W
L2	17.18'	S 03°34'48" E

DS₀ = 1/2" IRON ROD SET WITH CAP
MARKED "DIAMOND SURVEYING"

$P_K \Delta = 1/2"$ IRON ROD FOUND
(UNLESS SIZE OTHERWISE STATED)

● = 1/2" IRON ROD FOUND
(UNLESS SIZE OTHERWISE STATED)

AS● = IRON ROD FOUND WITH CAP
MARKED "AUSTIN SURVEYORS"

P.O.B. = POINT OF BEGINNING

R.O.W. = RIGHT OF WAY

O.P.R.W.C.T. = OFFICIAL PUBLIC RECORDS OF
WILLIAMSON COUNTY, TEXAS

O.R.W.C.T. = OFFICIAL RECORDS OF
WILLIAMSON COUNTY, TEXAS

P.R.W.C.T. = PLAT RECORDS OF
WILLIAMSON COUNTY, TEXAS

① = COUNTY OF WILLIAMSON
CALLED 0.035 ACRE
VOL. 1694 PG. 179
O.B.W.C.T.

⑧ = COUNTY OF WILLIAMSON
CALLED 0.120 ACRE
VOL 1707 PG. 394
O.B.W.C.T.

© = ARRINGTON RIDGE II, LLC
CALLED 5.002 ACRES
DOC. NO. 2018043922

① = COUNTY OF WILLIAMSON
CALLED 0.106 ACRE
VOL. 1694 PG. 179
O.R.W.C.T.

SHEET 1 OF 1

DIAMOND SURVEYING, INC.

116 SKYLINE ROAD, GEORGETOWN, TX 78628
512-931-3100
T.B.P.L.S. FIRM NO. 10006900

SHANE SHAFER, R.P.L.S. NO. 5281

DATE _____

EXHIBIT

"B"

ANNEXATION OR CITY LIMITS EXTENSION

TO THE MAYOR AND GOVERNING BODY OF THE CITY OF ROUND ROCK, TEXAS.

The undersigned owners of the hereinafter described tract of land, which is (1) one-half mile or less in width, (2) contiguous to the city limits, and (3) vacant and without residents, or on which less than three (3) qualified voters reside, hereby petition your Honorable Body to extend the present city limits so as to include as a part of the City of Round Rock, Texas, the property described in Exhibit "A", attached hereto and made a part hereof.

We hereby certify, under oath, that:

WE ARE THE TRUE AND ONLY OWNERS OF THE ABOVE DESCRIBED TRACT OF LAND, as conveyed to us in Deed(s) recorded as Document No. 2008069340, Official Public Records of Williamson County, or in Volume Page , Deed Records of

~~Williamson County.~~ A+W Limited Partnership/LRA Management Corp.
its General Partner by

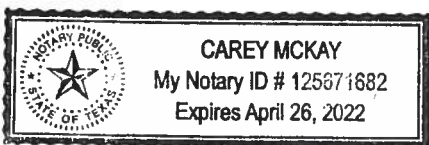
C.R. Arredondo

Owner(s)

C.R. Arredondo, Vice President
or ERD

SUBSCRIBED AND SWORN TO BEFORE ME, a notary public, by

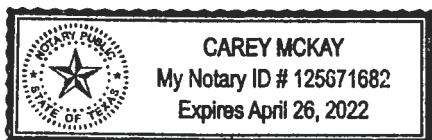
C.R. Arredondo this 22nd day of March, 2019, A.D.



Carey McKay
Notary Public, State of Texas

ACKNOWLEDGMENT (INDIVIDUAL)

This instrument was acknowledged before me on the 22nd day of March, 2019 by
C.R. Arredondo, vice president



Carey McKay
Notary Public, State of Texas

EXHIBIT

"A"

METES AND BOUNDS DESCRIPTION

FOR A 7.499 ACRE TRACT OF LAND, MORE OR LESS, OUT OF THE N.B ANDERSON SURVEY, ABSTRACT NO. 29, IN WILLIAMSON COUNTY, TEXAS, BEING ALL OF THE CALLED 7.40 ACRE TRACT OF LAND (TRACT I) AND ALL OF THE CALLED 0.108 ACRE TRACT OF LAND (TRACT II), BOTH TRACTS OF LAND CONVEYED TO A & W LIMITED PARTNERSHIP, AS RECORDED IN DOCUMENT NO. 2008069340, OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS. SAID 7.499 ACRE TRACT OF LAND BEING SURVEYED ON THE GROUND BY DIAMOND SURVEYING DURING THE MONTH OF SEPTEMBER 2018, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron rod found on the southwest corner of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being on an angle point in the northerly boundary line of LOT 1, BLOCK A of BARTZ PHASE TWO, a subdivision recorded in Document No. 2015104762, Official Public Records of Williamson County, Texas, for the southwest corner and **POINT OF BEGINNING** hereof;

THENCE, **N 19°07'57" W** with west boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being with the northerly boundary line of said LOT 1 BLOCK A, BARTZ PHASE TWO, for a distance of **207.51 feet** to an iron rod found with cap marked "Austin Surveyors" on the apparent southerly right-of-way line of C.R. 114 (A.K.A. UNIVERSITY BOULEVARD) (right-of-way width varies), same being on an angle point in the northerly boundary line of said LOT 1, BLOCK A, BARTZ PHASE TWO, same being on the southeast corner of the called 0.106 acre tract of land conveyed to COUNTY OF WILLIAMSON, recorded in Volume 1694, Page 179, Official Records of Williamson County, Texas, from which an iron rod found with cap marked "Stan Tec" on the northwest corner of said LOT 1, BLOCK A, BARTZ PHASE TWO, bears S 68°07'51" W for a distance of 97.61 feet,

THENCE, **N 19°07'57" W** continuing with said west boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being with the east boundary line of said 0.106 COUNTY OF WILLIAMSON tract, same being through the interior of the apparent right-of-way of said C.R. 114, for a distance of **28.98 feet** to a PK nail set in asphalt roadway on the northwest corner of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being on the northeast corner of said 0.106 acre COUNTY OF WILLIAMSON tract, for the northwest corner hereof;

THENCE, **N 70°50'45" E** with the north boundary line of said A & W LIMITED PARTNERSHIP tract, same being through said interior of the apparent right-of-way of C.R. 114, for a distance of **219.23 feet** to a 1/2" iron rod found on an angle point in the said north boundary line of A & W LIMITED PARTNERSHIP tract, same being the west corner of said 0.108 acre A & W LIMITED PARTNERSHIP tract, same being on a point in the southerly right-of-way line of said C.R. 114, for the beginning of a curve to the left hereof;

THENCE, with the north boundary line of said 0.108 acre A & W LIMITED PARTNERSHIP tract, same being with the with the said southerly right-of-way line of said C.R. 114, with said curve to the left, said curve having an arc length of **463.64 feet**, a radius of **2112.42 feet**, a central angle of **12°34'32"**, and a chord which bears **N 54°06'41" E** for a distance of **462.71 feet** to a 1/2" iron rod found on the east corner of said 0.108 acre A & W LIMITED PARTNERSHIP TRACT, same being on an angle point in the said north boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, for the end of this curve;

THENCE, with the said north boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being through the said interior of the apparent right-of-way of said C.R. 114, the following two (2) courses and distances:

1. **N 47°06'08" E** for a distance of **71.00 feet** to a 1/2" iron rod set with cap marked "Diamond Surveying" for an angle point hereof;
2. **N 48°14'40" E** for a distance of **345.30 feet** to a PK nail set in concrete on the northeast corner of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being on the northwest corner of a called 0.035 acre tract of land conveyed to the COUNTY OF WILLIAMSON, recorded in said Volume 1694, Page 179, for the northeast corner hereof;

THENCE, **S 03°34'48" E** with the east boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being through said interior of the apparent right-of-way of C.R. 114, same being with the west boundary line of said 0.035 acre COUNTY OF WILLIAMSON tract, for a distance of **17.18 feet** to an iron rod found with cap marked "Austin Surveyors" on the southwest corner of said 0.035 COUNTY OF WILLIAMSON tract, same being on an angle point in the northerly boundary line of a LOT 1, BLOCK B, of BARTZ PHASE ONE, a subdivision recorded in Document No. 2013047200, Official Public Records of Williamson County, Texas, same being on a point in the said southerly right-of-way line of said C.R. 114, from which an iron rod found with cap marked "RPLS 1847" on the southeast corner of said 0.035 acre COUNTY OF WILLIAMSON tract, same being on the northeast corner of said LOT 1, BLOCK B, BARTZ PHASE ONE, same being on a point in said southerly right-of-way line of said C.R. 114, bears **N 56°07'38" E** for a distance of 56.39 feet;

THENCE, **S 03°34'48" E** continuing with said east boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being with said northerly boundary line of said LOT 1, BLOCK B, BARTZ PHASE ONE, for a distance of **558.63 feet** to a 1/2" iron rod set with cap marked "Diamond Surveying" for the southeast corner of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being on an angle point in the said westerly boundary line of said LOT 1, BLOCK B, BARTZ PHASE ONE, for the southeast corner hereof;

THENCE, **S 72°21'56" W** with the south boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, in part with the said westerly boundary line of LOT 1, BLOCK B, BARTZ PHASE ONE, and in part with the northerly boundary line of aforementioned LOT 1, BLOCK A, BARTZ PHASE TWO, passing at a distance of 98.43 feet, an iron rod found with cap marked "Chaparral" on an angle point in said westerly boundary line of LOT 1, BLOCK B, BARTZ PHASE ONE, same being on the northeast corner of said LOT 1, BLOCK A, BARTZ PHASE TWO, continuing for an additional distance of 793.49 feet, for a total distance of **891.92 feet** to the **POINT OF BEGINNING** and containing 7.499 acres of land more or less. Of which 0.126 acre of land lies within the apparent right-of-way of C.R. 114.

Bearing Basis: NAD-83, Texas Central Zone (4203) State Plane System. Distances shown hereon are surface distances based on a combined surface adjustment factor of 1.00012.

A drawing has been prepared to accompany this metes and bounds description.

<> *DIAMOND SURVEYING, INC.*
116 SKYLINE ROAD, GEORGETOWN, TX 78628
(512) 931-3100
T.B.P.L.S. FIRM NO. 10006900



Shane Shafer 11-5-18
SHANE SHAFER, R.P.L.S. NO. 5281 DATE

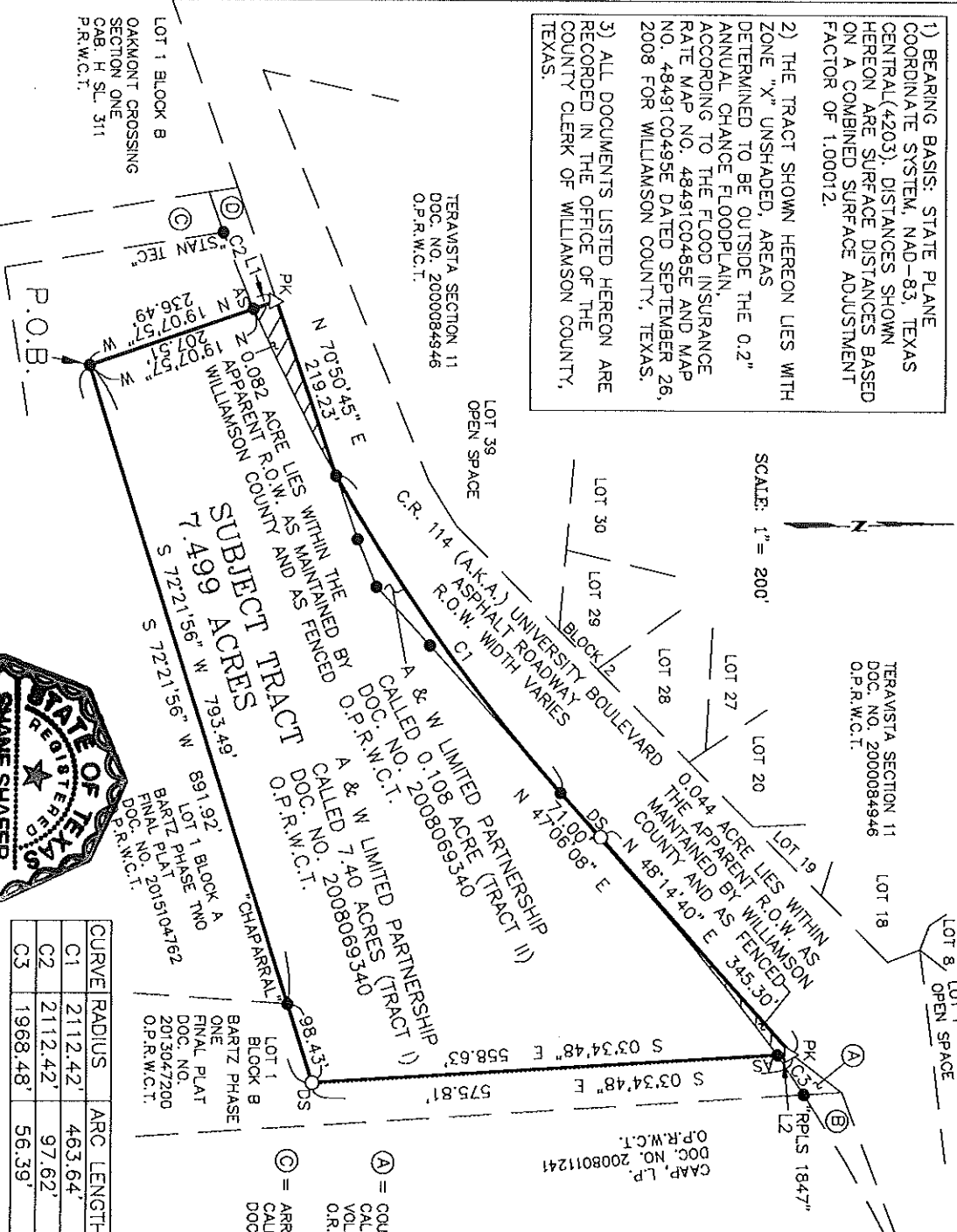
Z:\CSW DEVELOPMENT\UNIVERSITY BLVD 651\ANNEXATION AND ZONING BOUNDARY\11-5-18 651 UNIVERSITY BLVD 7.499 AC.
M&B.docx

FOR A 7.499 ACRE TRACT OF LAND, MORE OR LESS, OUT OF THE N.B. ANDERSON SURVEY, ABSTRACT NO. 23, IN WILLAMSON COUNTY, TEXAS, BEING ALL OF THE CALLED 7.40 ACRE TRACT OF LAND (TRACT 1) AND ALL OF THE CALLED 0.108 ACRE TRACT OF LAND (TRACT 1D), BOTH TRACTS OF LAND CONVEYED TO A & W LIMITED PARTNERSHIP, AS RECORDED IN DOCUMENT NO. 2008069340, OFFICIAL PUBLIC RECORDS OF WILLAMSON COUNTY, TEXAS.

ADDRESS: 651 UNIVERSITY BOULEVARD, ROUND ROCK, TX 78665

1) BEARING BASIS: STATE PLANE
COORDINATE SYSTEM, NAD-83, TEXAS
CENTRAL(4203). DISTANCES SHOWN
HEREON ARE SURFACE DISTANCES BASED
ON A COMBINED SURFACE ADJUSTMENT
FACTOR OF 1.00012.

2) THE TRACT SHOWN HEREON LIES WITH ZONE "X" UNSHADED, AREAS DETERMINED TO BE OUTSIDE THE 0.2" ANNUAL CHANCE FLOODPLAIN, ACCORDING TO THE FLOOD INSURANCE RATE MAP NO. 48491C0485E AND MAP NO. 48491C0495E DATED SEPTEMBER 26, 2008 FOR WILLAMSON COUNTY, TEXAS.



CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	2112.42'	463.64'	12.34.32"	N 54.06.41" E	462.71'
C2	2112.42'	97.62'	02.38.52"	S 68.07.51" W	97.61'
C3	1968.48'	56.39'	01.38.29"	N 56.07.38" E	56.39'

NUM	DISTANCE	BEARING
L1	28.98'	N 19°07'57" W
L2	17.18'	S 03°34'48" E

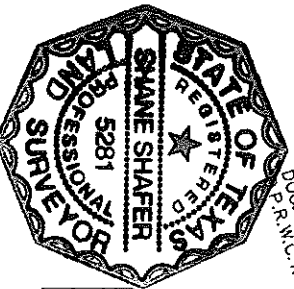
(A) = COUNTY OF WILLIAMSON
CALLED 0.055 ACRE
VOL. 1694 PG. 179
O.R.W.C.T.

(B) = COUNTY OF WILLIAMSON
CALLED 0.120 ACRE
VOL. 1707 PG. 394
O.R.W.C.T.

(C) = ARRINGTOWN RIDGE II, LLC
CALLED 5.002 ACRES
DOC. NO. 20180439322

(D) = COUNTY OF WILLIAMSON
CALLED 0.106 ACRE
VOL. 1694 PG. 179
O.R.W.C.T.

$\Delta^{\text{DS}} = 1/2"$ IRON ROD SET WITH CAP
 MARKED "DIAMOND SURVEYING"
 $\Delta^{\text{PK}} = 1/2"$ IRON ROD FOUND
 (UNLESS SIZE OTHERWISE STATED)
 ● = 1/2" IRON ROD FOUND
 (UNLESS SIZE OTHERWISE STATED)
 AS = IRON ROD FOUND WITH CAP
 MARKED "AUSTIN SURVEYORS"
 P.O.B. = POINT OF BEGINNING
 R.O.W. = RIGHT OF WAY
 O.P.R.W.C.T. = OFFICIAL PUBLIC RECORDS OF
 WILLIAMSON COUNTY, TEXAS
 O.R.W.C.T. = OFFICIAL RECORDS OF
 WILLIAMSON COUNTY, TEXAS
 P.R.W.C.T. = PLAT RECORDS OF
 WILLIAMSON COUNTY, TEXAS

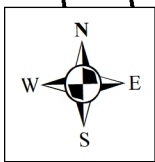


SHANE SHAFER R.P.L.S. NO. 5281

DATE _____

SHEET 1 OF 1

DIAMOND SURVEYING, INC.
116 SKYLINE ROAD, GEORGETOWN, TX 78628
512-931-3100
T.B.P.L.S. FIRM NO. 100069002

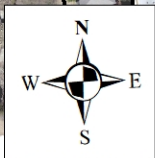


University Blvd

Orion St

Sunrise Rd

**Subject Tract
7.5 ac.**



University Blvd

Orion St

Sunrise Rd

**Subject Tract
7.5 ac.**



City of Round Rock

Agenda Item Summary

Agenda Number: I.2

Title: Consider public testimony regarding, and an ordinance zoning 7.499 acres of land located south of University Boulevard and east of Sunrise Road to the C-1a (General Commercial-Limited) zoning district. (First Reading)*

Type: Ordinance

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Brad Wiseman, Planning and Development Services Department

Cost:

Indexes:

Attachments: Ordinance, Exhibit A, Aerial Photo - 7.5 acres, Vicinity Map and surrounding zoning - 7.5 acres

Department: Planning and Development Services Department

Text of Legislative File 2019-0152

This request was filed by Waeltz & Prete, Inc. on behalf of the property owner, A&W Limited Partnership. The subject tract is located at 651 University Boulevard and is comprised of 7.499 acres in the City's ETJ (Extraterritorial Jurisdiction). The west, south and east sides of the subject tract borders the property within the City limits, which is zoned PUD (Planned Unit Development) No. 90 also known as the Bartz Tract. The Teravista neighborhood, also in the City's ETJ, is located north of the tract across University Boulevard. Accompanying requests for annexation and general plan amendment are separate agenda items.

The C-1a (General Commercial - Limited) zoning district allows commercial land uses such as offices, hotels, retail, restaurants, trade schools and small animal grooming facilities by right. The C-1a development standards require that the exterior building materials be a minimum of 75% natural stone, simulated stone, brick, stone-face or split-face CMU. The remainder of the exterior may be stucco, fiber cement siding, architectural steel or metal.

The Planning and Zoning Commission held a public hearing on December 5, 2018 and voted 8-0 to recommend approval of the original zoning request. There were no speakers for or against the application.

ORDINANCE NO. O-2019-0152

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF ROUND ROCK, TEXAS ADOPTED IN ZONING AND DEVELOPMENT CODE, CHAPTER 2, ARTICLE I, SECTION 2-2(b)(1), CODE OF ORDINANCES (2018 EDITION), CITY OF ROUND ROCK, TEXAS, AND MAKING THIS AMENDMENT A PART OF THE SAID OFFICIAL ZONING MAP, TO WIT: TO ORIGINALLY ZONE 7.499 ACRES OF LAND OUT OF THE N.B. ANDERSON SURVEY, ABSTRACT NO. 29, IN ROUND ROCK, WILLIAMSON COUNTY, TEXAS, AS DISTRICT C-1A (GENERAL COMMERCIAL - LIMITED); AND PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS.

WHEREAS, the City of Round Rock, Texas has recently annexed 7.499 acres of land out of the N.B. Anderson Survey, Abstract No. 29 in Round Rock, Williamson County, Texas, being more fully described in Exhibit "A" (the "Property"), attached hereto and incorporated herein, and

WHEREAS, the Planning and Zoning Commission held a public hearing concerning the original zoning of the Property on the 5th day of December, 2018, following lawful publication of the notice of said public hearing, and

WHEREAS, after considering the public testimony received at such hearing, the Planning and Zoning Commission has recommended that the Official Zoning Map be amended so that the Property in Exhibit "A" be originally zoned as District C-1a (General Commercial - Limited), and

WHEREAS, on the 11th day of April, 2019, after proper notification, the City Council held a public hearing on the proposed original zoning, and

WHEREAS, the City Council determines that the zoning provided for herein promotes the health, safety, morals and protects and preserves the general welfare of the community, and

WHEREAS, each and every requirement set forth in Chapter 211, Sub-Chapter A., Texas Local Government Code, and Zoning and Development Code, Chapter 2, Article I, Section 2-2 and Chapter 10, Article I, Section 10-2, Code of Ordinances (2018 Edition), City of Round Rock, Texas concerning public notices, hearings, and other procedural matters has been fully complied with, Now Therefore

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROUND ROCK,
TEXAS:**

I.

That the City Council has considered and hereby makes the following findings regarding this original zoning:

1. It is consistent with the general plan;
2. It is compatible with the present zoning and conforming uses of nearby property and with the character of the neighborhood;
3. The affected property is suitable for existing uses that are and would be permitted by District C-1a (General Commercial - Limited); and
4. Water, wastewater, and stormwater facilities are suitable and adequate and are available for the existing uses in District C-1a (General Commercial - Limited).

II.

That the Official Zoning Map adopted in Zoning and Development Code, Chapter 2, Article I, Section 2-2(b)(1), Code of Ordinances (2018 Edition), City of Round Rock, Texas, is hereby amended so that the zoning classification of the property described in Exhibit "A" is hereafter designated as District C-1a (General Commercial - Limited).

III.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance 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.

Alternative 1.

By motion duly made, seconded and passed with an affirmative vote of all the Council members present, the requirement for reading this ordinance on two separate days was dispensed with.

READ, PASSED, and ADOPTED on first reading this ____ day of _____, 2019.

Alternative 2.

READ and APPROVED on first reading this the ____ day of _____, 2019.

READ, APPROVED and ADOPTED on second reading this the ____ day of _____, 2019.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk

EXHIBIT

"A"

METES AND BOUNDS DESCRIPTION

FOR A 7.499 ACRE TRACT OF LAND, MORE OR LESS, OUT OF THE N.B ANDERSON SURVEY, ABSTRACT NO. 29, IN WILLIAMSON COUNTY, TEXAS, BEING ALL OF THE CALLED 7.40 ACRE TRACT OF LAND (TRACT I) AND ALL OF THE CALLED 0.108 ACRE TRACT OF LAND (TRACT II), BOTH TRACTS OF LAND CONVEYED TO A & W LIMITED PARTNERSHIP, AS RECORDED IN DOCUMENT NO. 2008069340, OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS. SAID 7.499 ACRE TRACT OF LAND BEING SURVEYED ON THE GROUND BY DIAMOND SURVEYING DURING THE MONTH OF SEPTEMBER 2018, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron rod found on the southwest corner of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being on an angle point in the northerly boundary line of LOT 1, BLOCK A of BARTZ PHASE TWO, a subdivision recorded in Document No. 2015104762, Official Public Records of Williamson County, Texas, for the southwest corner and **POINT OF BEGINNING** hereof;

THENCE, **N 19°07'57" W** with west boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being with the northerly boundary line of said LOT 1 BLOCK A, BARTZ PHASE TWO, for a distance of **207.51 feet** to an iron rod found with cap marked "Austin Surveyors" on the apparent southerly right-of-way line of C.R. 114 (A.K.A. UNIVERSITY BOULEVARD) (right-of-way width varies), same being on an angle point in the northerly boundary line of said LOT 1, BLOCK A, BARTZ PHASE TWO, same being on the southeast corner of the called 0.106 acre tract of land conveyed to COUNTY OF WILLIAMSON, recorded in Volume 1694, Page 179, Official Records of Williamson County, Texas, from which an iron rod found with cap marked "Stan Tec" on the northwest corner of said LOT 1, BLOCK A, BARTZ PHASE TWO, bears S 68°07'51" W for a distance of 97.61 feet,

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THENCE, with the north boundary line of said 0.108 acre A & W LIMITED PARTNERSHIP tract, same being with the with the said southerly right-of-way line of said C.R. 114, with said curve to the left, said curve having an arc length of **463.64 feet**, a radius of **2112.42 feet**, a central angle of **12°34'32"**, and a chord which bears **N 54°06'41" E** for a distance of **462.71 feet** to a 1/2" iron rod found on the east corner of said 0.108 acre A & W LIMITED PARTNERSHIP TRACT, same being on an angle point in the said north boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, for the end of this curve;

THENCE, with the said north boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being through the said interior of the apparent right-of-way of said C.R. 114, the following two (2) courses and distances:

1. **N 47°06'08" E** for a distance of **71.00 feet** to a 1/2" iron rod set with cap marked "Diamond Surveying" for an angle point hereof;
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A drawing has been prepared to accompany this metes and bounds description.

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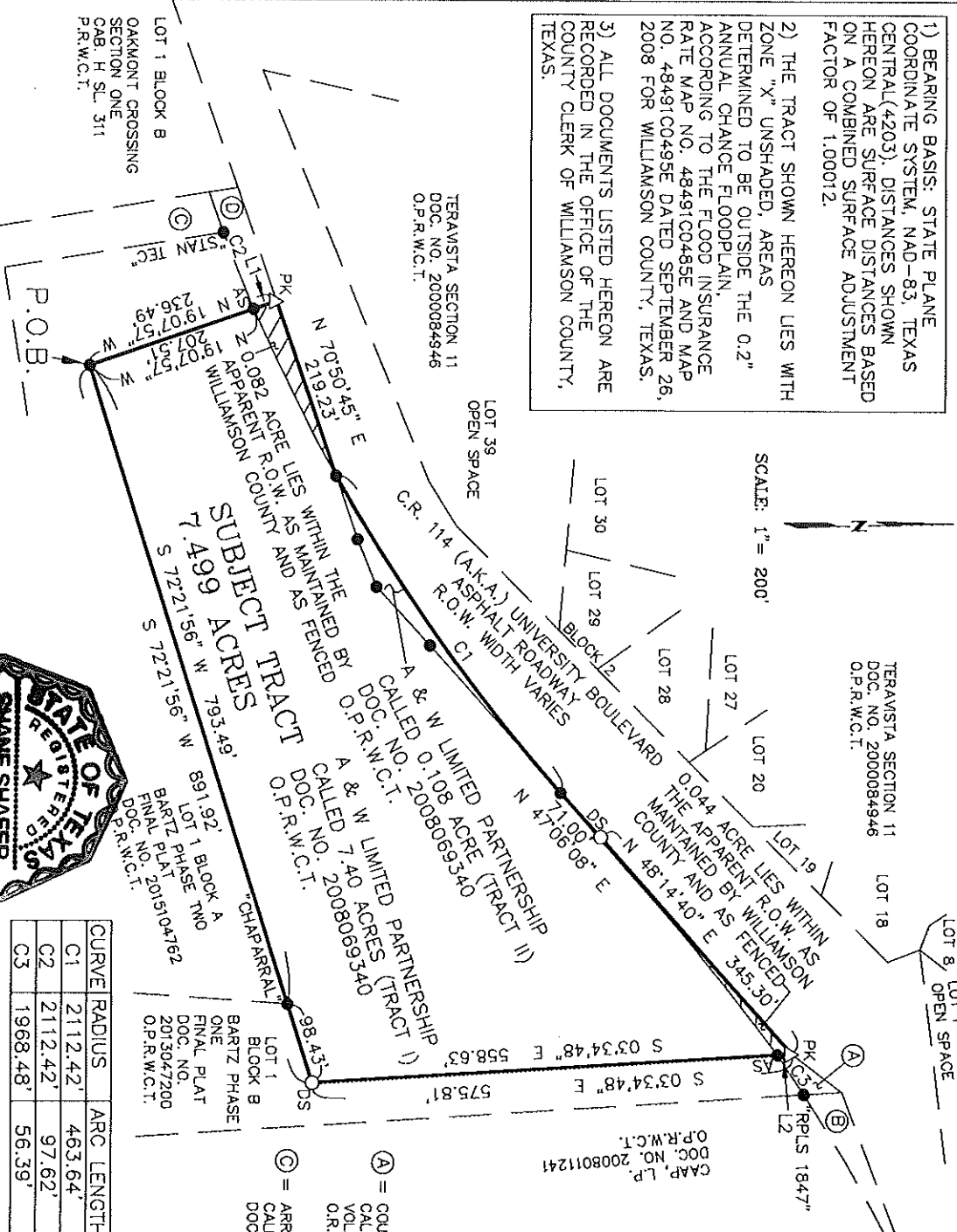
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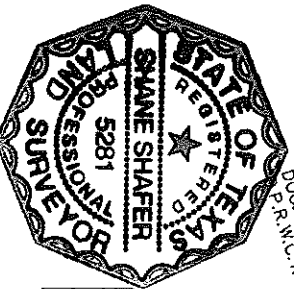
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VOL. 1694 PG. 179
O.R.W.C.T.

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VOL. 1707 PG. 394
O.R.W.C.T.

(C) = ARRINGTOWN RIDGE II, LLC
CALLED 5.002 ACRES
DOC. NO. 20180439322

(D) = COUNTY OF WILLIAMSON
CALLED 0.106 ACRE
VOL. 1694 PG. 179
O.R.W.C.T.

$\Delta^{\text{DS}} = 1/2"$ IRON ROD SET WITH CAP
 MARKED "DIAMOND SURVEYING"
 $\Delta^{\text{PK}} = 1/2"$ IRON ROD FOUND
 (UNLESS SIZE OTHERWISE STATED)
 $\bullet = 1/2"$ IRON ROD FOUND
 (UNLESS SIZE OTHERWISE STATED)
 $\bullet^{\text{AS}} =$ IRON ROD FOUND WITH CAP
 MARKED "AUSTIN SURVEYORS"
 P.O.B. = POINT OF BEGINNING
 R.O.W. = RIGHT OF WAY
 O.P.R.W.C.T. = OFFICIAL PUBLIC RECORDS OF
 WILLIAMSON COUNTY, TEXAS
 O.R.W.C.T. = OFFICIAL RECORDS OF
 WILLIAMSON COUNTY, TEXAS
 P.R.W.C.T. = PLAT RECORDS OF
 WILLIAMSON COUNTY, TEXAS

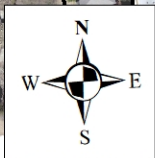


SHANE SHAFER R.P.L.S. NO. 5281

DATE _____

SHEET 1 OF 1

DIAMOND SURVEYING, INC.
116 SKYLINE ROAD, GEORGETOWN, TX 78628
512-931-3100
T.B.P.L.S. FIRM NO. 100069002

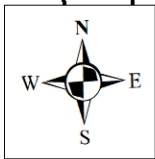


University Blvd

Orion St

Sunrise Rd

**Subject Tract
7.5 ac.**



ETJ

University Blvd

Orion St

Unzoned

**Subject Tract
7.5 ac.**

C-1

MF2

PUD

SF-2

C-1a

Sunrise Rd



City of Round Rock

Agenda Item Summary

Agenda Number: I.3

Title: Consider public testimony regarding, and an ordinance approving an amendment to the General Plan 2020 to modify the Future Land Use Map to allow commercial development on the eastern half of 7.499 acres located south of University Boulevard and east of Sunrise Road. (First Reading)*

Type: Ordinance

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Brad Wiseman, Planning and Development Services Director

Cost:

Indexes:

Attachments: Ordinance, Exhibit A, Aerial Photo, Vicinity map and surrounding zoning

Department: Planning and Development Services Department

Text of Legislative File 2019-0153

This request was filed by Waeltz & Prete, Inc. on behalf of the property owner, A&W Limited Partnership. The subject tract is currently located at 651 University Boulevard and is comprised of 7.499 acres in the City's ETJ (Extraterritorial Jurisdiction). Accompanying requests for annexation and original zoning to C-1a (General Commercial -Limited) are separate agenda items.

Land use designations shown on the Future Land Use Map (FLUM) in General Plan 2020 are used to guide zoning decisions within the City's planning area. These designations can be amended based on changing conditions, or in support of a zoning change request.

The proposal is to amend the Future Land Use Map to designate the eastern half of the tract to commercial so that the entire 7.50 acres may be developed for commercial purposes. The west, south, and east sides of the subject tract border the property within the City limits, which is zoned PUD No. 90 (Planned Unit Development) also known as the Bartz Tract. The Teravista neighborhood, also in the City's ETJ, is located to the north of the tract across University Boulevard.

Staff is favorably recommending the proposed amendment to a commercial land use for the following reasons. Due to the tract's limited residential acreage, it is unlikely that it will be developed as a low-density residential project (single family detached; townhome; or low density multifamily). The ultimate lot/unit yield will likely not make it feasible from a financial

standpoint. Similarly, a traditional mid-size apartment complex is unlikely to be developed due to its size/scale. Furthermore, the General Plan's multi-family location criteria will prevent an apartment complex from locating on the tract due to its close proximity to the existing apartments nearby. Given the tract's location along University Boulevard and the ongoing lack of residential activity on the site, it is staff's opinion that the tract is appropriate for commercial development to serve the needs of residents in northeast Round Rock.

The Planning and Zoning Commission held a public hearing on December 5, 2018 and voted 8-0 to recommend approval of the original zoning request. There were no speakers for or against the application.

ORDINANCE NO. O-2019-0153

AN ORDINANCE AMENDING THE ROUND ROCK COMPREHENSIVE PLAN, ADOPTED IN ZONING AND DEVELOPMENT CODE, CHAPTER 1, ARTICLE 1, SECTION 1-7, CODE OF ORDINANCES (2018 EDITION), CITY OF ROUND ROCK, TEXAS, BY AMENDING THE FUTURE LAND USE MAP OF THE GENERAL PLAN 2020; AND PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS.

WHEREAS, a request has been made to the City Council of the City of Round Rock, Texas to amend the Future Land Use Map of the General Plan 2020, by changing the designation on a portion of 7.499 acres out of the N.B. Anderson Survey, Abstract No. 29 in Round Rock, Williamson County, Texas, being more fully described in Exhibit “A” attached hereto, from the Residential Designation to the Commercial Designation, and

WHEREAS, the City Council has submitted the requested change in the Future Land Use Map to the Planning and Zoning Commission for its recommendation and report, and

WHEREAS, the Planning and Zoning Commission held a public hearing concerning the requested change on the 5th day of December, 2018, following lawful publication of the notice of said public hearing, and

WHEREAS, after considering the public testimony received at such hearing, the Planning and Zoning Commission has recommended that the Future Land Use Map of the General Plan 2020 be amended so that the property described in Exhibit “A” be designated as Commercial, and

WHEREAS, on the 11th day of April, 2019, after proper notification, the City Council held a public hearing on the requested amendment, and

WHEREAS, the City Council determines that the amended land use designation amendment provided for herein promotes the health, safety, morals and protects and preserves the general welfare of the community, and

WHEREAS, each and every requirement concerning public notices, hearings, and other procedural matters has been fully complied with, Now Therefore

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

I.

That the Future Land Use Map which is contained in Chapter 6, designated as Map 6.2 of the General Plan 2020, adopted in Zoning and Development Code, Chapter 1, Article 1, Section 1-7, Code of Ordinances (2018 Edition), City of Round Rock, Texas, is hereby amended so that the land use designation of the property described in Exhibit "A" is hereafter Commercial.

II.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance 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.

Alternative 1.

By motion duly made, seconded and passed with an affirmative vote of all the Council members present, the requirement for reading this ordinance on two separate days was dispensed with.

READ, PASSED, and ADOPTED on first reading this _____ day of _____, 2019.

Alternative 2.

READ and APPROVED on first reading this the _____ day of _____, 2019.

READ, APPROVED and ADOPTED on second reading this the _____ day of _____, 2019.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk

EXHIBIT

"A"

METES AND BOUNDS DESCRIPTION

FOR A 7.499 ACRE TRACT OF LAND, MORE OR LESS, OUT OF THE N.B ANDERSON SURVEY, ABSTRACT NO. 29, IN WILLIAMSON COUNTY, TEXAS, BEING ALL OF THE CALLED 7.40 ACRE TRACT OF LAND (TRACT I) AND ALL OF THE CALLED 0.108 ACRE TRACT OF LAND (TRACT II), BOTH TRACTS OF LAND CONVEYED TO A & W LIMITED PARTNERSHIP, AS RECORDED IN DOCUMENT NO. 2008069340, OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS. SAID 7.499 ACRE TRACT OF LAND BEING SURVEYED ON THE GROUND BY DIAMOND SURVEYING DURING THE MONTH OF SEPTEMBER 2018, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron rod found on the southwest corner of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being on an angle point in the northerly boundary line of LOT 1, BLOCK A of BARTZ PHASE TWO, a subdivision recorded in Document No. 2015104762, Official Public Records of Williamson County, Texas, for the southwest corner and **POINT OF BEGINNING** hereof;

THENCE, **N 19°07'57" W** with west boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being with the northerly boundary line of said LOT 1 BLOCK A, BARTZ PHASE TWO, for a distance of **207.51 feet** to an iron rod found with cap marked "Austin Surveyors" on the apparent southerly right-of-way line of C.R. 114 (A.K.A. UNIVERSITY BOULEVARD) (right-of-way width varies), same being on an angle point in the northerly boundary line of said LOT 1, BLOCK A, BARTZ PHASE TWO, same being on the southeast corner of the called 0.106 acre tract of land conveyed to COUNTY OF WILLIAMSON, recorded in Volume 1694, Page 179, Official Records of Williamson County, Texas, from which an iron rod found with cap marked "Stan Tec" on the northwest corner of said LOT 1, BLOCK A, BARTZ PHASE TWO, bears S 68°07'51" W for a distance of 97.61 feet,

THENCE, **N 19°07'57" W** continuing with said west boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being with the east boundary line of said 0.106 COUNTY OF WILLIAMSON tract, same being through the interior of the apparent right-of-way of said C.R. 114, for a distance of **28.98 feet** to a PK nail set in asphalt roadway on the northwest corner of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being on the northeast corner of said 0.106 acre COUNTY OF WILLIAMSON tract, for the northwest corner hereof;

THENCE, **N 70°50'45" E** with the north boundary line of said A & W LIMITED PARTNERSHIP tract, same being through said interior of the apparent right-of-way of C.R. 114, for a distance of **219.23 feet** to a 1/2" iron rod found on an angle point in the said north boundary line of A & W LIMITED PARTNERSHIP tract, same being the west corner of said 0.108 acre A & W LIMITED PARTNERSHIP tract, same being on a point in the southerly right-of-way line of said C.R. 114, for the beginning of a curve to the left hereof;

THENCE, with the north boundary line of said 0.108 acre A & W LIMITED PARTNERSHIP tract, same being with the with the said southerly right-of-way line of said C.R. 114, with said curve to the left, said curve having an arc length of **463.64 feet**, a radius of **2112.42 feet**, a central angle of **12°34'32"**, and a chord which bears **N 54°06'41" E** for a distance of **462.71 feet** to a 1/2" iron rod found on the east corner of said 0.108 acre A & W LIMITED PARTNERSHIP TRACT, same being on an angle point in the said north boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, for the end of this curve;

THENCE, with the said north boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being through the said interior of the apparent right-of-way of said C.R. 114, the following two (2) courses and distances:

1. **N 47°06'08" E** for a distance of **71.00 feet** to a 1/2" iron rod set with cap marked "Diamond Surveying" for an angle point hereof;
2. **N 48°14'40" E** for a distance of **345.30 feet** to a PK nail set in concrete on the northeast corner of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being on the northwest corner of a called 0.035 acre tract of land conveyed to the COUNTY OF WILLIAMSON, recorded in said Volume 1694, Page 179, for the northeast corner hereof;

THENCE, **S 03°34'48" E** with the east boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being through said interior of the apparent right-of-way of C.R. 114, same being with the west boundary line of said 0.035 acre COUNTY OF WILLIAMSON tract, for a distance of **17.18 feet** to an iron rod found with cap marked "Austin Surveyors" on the southwest corner of said 0.035 COUNTY OF WILLIAMSON tract, same being on an angle point in the northerly boundary line of a LOT 1, BLOCK B, of BARTZ PHASE ONE, a subdivision recorded in Document No. 2013047200, Official Public Records of Williamson County, Texas, same being on a point in the said southerly right-of-way line of said C.R. 114, from which an iron rod found with cap marked "RPLS 1847" on the southeast corner of said 0.035 acre COUNTY OF WILLIAMSON tract, same being on the northeast corner of said LOT 1, BLOCK B, BARTZ PHASE ONE, same being on a point in said southerly right-of-way line of said C.R. 114, bears **N 56°07'38" E** for a distance of 56.39 feet;

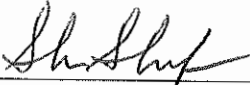
THENCE, **S 03°34'48" E** continuing with said east boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being with said northerly boundary line of said LOT 1, BLOCK B, BARTZ PHASE ONE, for a distance of **558.63 feet** to a 1/2" iron rod set with cap marked "Diamond Surveying" for the southeast corner of said 7.40 acre A & W LIMITED PARTNERSHIP tract, same being on an angle point in the said westerly boundary line of said LOT 1, BLOCK B, BARTZ PHASE ONE, for the southeast corner hereof;

THENCE, **S 72°21'56" W** with the south boundary line of said 7.40 acre A & W LIMITED PARTNERSHIP tract, in part with the said westerly boundary line of LOT 1, BLOCK B, BARTZ PHASE ONE, and in part with the northerly boundary line of aforementioned LOT 1, BLOCK A, BARTZ PHASE TWO, passing at a distance of 98.43 feet, an iron rod found with cap marked "Chaparral" on an angle point in said westerly boundary line of LOT 1, BLOCK B, BARTZ PHASE ONE, same being on the northeast corner of said LOT 1, BLOCK A, BARTZ PHASE TWO, continuing for an additional distance of 793.49 feet, for a total distance of **891.92 feet** to the **POINT OF BEGINNING** and containing 7.499 acres of land more or less. Of which 0.126 acre of land lies within the apparent right-of-way of C.R. 114.

Bearing Basis: NAD-83, Texas Central Zone (4203) State Plane System. Distances shown hereon are surface distances based on a combined surface adjustment factor of 1.00012.

A drawing has been prepared to accompany this metes and bounds description.

<> *DIAMOND SURVEYING, INC.*
116 SKYLINE ROAD, GEORGETOWN, TX 78628
(512) 931-3100
T.B.P.L.S. FIRM NO. 10006900

 11-5-18
SHANE SHAFER, R.P.L.S. NO. 5281 DATE



Z:\CSW DEVELOPMENT\UNIVERSITY BLVD 651_ANNEXATION AND ZONING BOUNDARY\11-5-18 651 UNIVERSITY BLVD 7.499 AC.
M&B.docx

STANDARD LAND SURVEY

FOR A 7.499 ACRE TRACT OF LAND, MORE OR LESS, OUT OF THE N.B. ANDERSON SURVEY, ABSTRACT NO. 29, IN WILLIAMSON COUNTY, TEXAS, BEING ALL OF THE CALLED 7.40 ACRE TRACT OF LAND (TRACT I) AND ALL OF THE CALLED 0.108 ACRE TRACT OF LAND (TRACT II), BOTH TRACTS OF LAND CONVEYED TO A & W LIMITED PARTNERSHIP, AS RECORDED IN DOCUMENT NO. 2008069340, OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS.

ADDRESS: 651 UNIVERSITY BOULEVARD, ROUND ROCK, TX 78665

GENERAL NOTES:

1) BEARING BASIS: STATE PLANE COORDINATE SYSTEM, NAD-83, TEXAS CENTRAL(4203). DISTANCES SHOWN HEREON ARE SURFACE DISTANCES BASED ON A COMBINED SURFACE ADJUSTMENT FACTOR OF 1.00012.

2) THE TRACT SHOWN HEREON LIES WITH ZONE "X" UNSHADED, AREAS DETERMINED TO BE OUTSIDE THE 0.2" ANNUAL CHANCE FLOODPLAIN, ACCORDING TO THE FLOOD INSURANCE RATE MAP NO. 48491C0485E AND MAP NO. 48491C0495E DATED SEPTEMBER 26, 2008 FOR WILLIAMSON COUNTY, TEXAS.

3) ALL DOCUMENTS LISTED HEREON ARE RECORDED IN THE OFFICE OF THE COUNTY CLERK OF WILLIAMSON COUNTY, TEXAS.

LEGEND

DS ○ = 1/2" IRON ROD SET WITH CAP
MARKED "DIAMOND SURVEYING"

PK △ = 1/2" IRON ROD FOUND
(UNLESS SIZE OTHERWISE STATED)

● = 1/2" IRON ROD FOUND
(UNLESS SIZE OTHERWISE STATED)

AS ● = IRON ROD FOUND WITH CAP
MARKED "AUSTIN SURVEYORS"

P.O.B. = POINT OF BEGINNING

R.O.W. = RIGHT OF WAY

O.P.R.W.C.T. = OFFICIAL PUBLIC RECORDS OF
WILLIAMSON COUNTY, TEXAS

O.R.W.C.T. = OFFICIAL RECORDS OF
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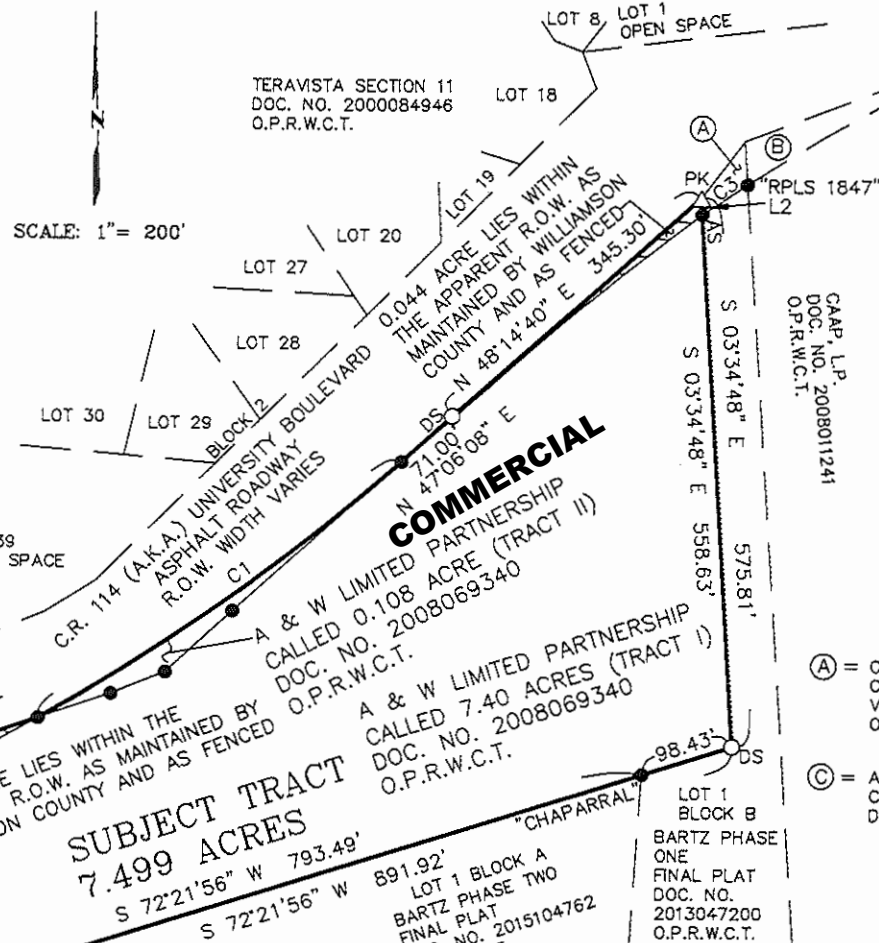
P.R.W.C.T. = PLAT RECORDS OF
WILLIAMSON COUNTY, TEXAS

Ⓐ = COUNTY OF WILLIAMSON
CALLED 0.035 ACRE
VOL. 1694 PG. 179
O.R.W.C.T.

Ⓑ = COUNTY OF WILLIAMSON
CALLED 0.120 ACRE
VOL. 1707 PG. 394
O.R.W.C.T.

Ⓒ = ARRINGTON RIDGE II, LLC
CALLED 5.002 ACRES
DOC. NO. 2018043922

Ⓓ = COUNTY OF WILLIAMSON
CALLED 0.106 ACRE
VOL. 1694 PG. 179
O.R.W.C.T.



CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	2112.42'	463.64'	12°34'32"	N 54°06'41" E	462.71'
C2	2112.42'	97.62'	02°38'52"	S 68°07'51" W	97.61'
C3	1968.48'	56.39'	01°38'29"	N 56°07'38" E	56.39'

NUM	DISTANCE	BEARING
L1	28.98'	N 19°07'57" W
L2	17.18'	S 03°34'48" E

SHEET 1 OF 1

DIAMOND SURVEYING, INC.

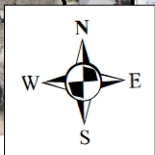
116 SKYLINE ROAD, GEORGETOWN, TX 78628
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T.B.P.L.S. FIRM NO. 10006900

Shane Shafer

11-5-18

SHANE SHAFER, R.P.L.S. NO. 5281

DATE

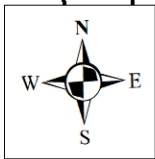


University Blvd

Orion St

Sunrise Rd

**Subject Tract
7.5 ac.**



ETJ

University Blvd

Orion St

Unzoned

**Subject Tract
7.5 ac.**

C-1

MF2

PUD

SF-2

C-1a

Sunrise Rd



City of Round Rock

Agenda Item Summary

Agenda Number: J.1

Title: Consider one (1) appointment to the Historic Preservation Commission to fill an unexpired term.

Type: Appointment

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director: Sara White, City Clerk

Cost:

Indexes:

Attachments:

Department: City Clerk's Office

Text of Legislative File TMP-0168



City of Round Rock

Agenda Item Summary

Agenda Number: L.1

Title: Consider Executive Session as authorized by §551.072, Government Code, related to the sale and/or value of real property to wit: 100 Tower Drive, Round Rock, Texas.

Type: Executive Session

Governing Body: City Council

Agenda Date: 4/11/2019

Dept Director:

Cost:

Indexes:

Attachments:

Department:

Text of Legislative File TMP-0173