

RESOLUTION NO. R-2016-3689

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

CITY OF ROUND ROCK

COUNTIES OF WILLIAMSON AND TRAVIS

STATE OF TEXAS

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

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

WHEREAS, the BCRUA has previously issued its "Brushy Creek Regional Utility Authority, Inc. City of Round Rock, Texas Contract Revenue Bonds, (Brushy Creek Regional Water Treatment and Distribution Project), Series 2009," in the aggregate original principal amount of \$65,870,000 (the "Series 2009 Bonds") pursuant to the Master Contract to finance the City's share of the first phase of the BCRUA Project (as defined in the Master Contract); and

WHEREAS, the Board of Directors of the BCRUA has adopted the resolution attached hereto as Exhibit "A" (the "Refunding Bond Resolution") authorizing issuance of refunding bonds (the "Bonds") to refund the Series 2009 Bonds for a debt service savings as further set forth therein; and

WHEREAS, the Refunding Bond Resolution and the Master Contract require the approval of the City Council prior to the issuance of any Bonds thereunder; and

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

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

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

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

SECTION 3. OFFERING DOCUMENT. The substantially final draft of the Preliminary Official Statement related to the issuance of the Bonds attached hereto as Exhibit "B" has been presented to the City Council for review and is hereby approved by the City Council with such changes therein or additions thereto as the City Manager or an Assistant City Manager may deem advisable. The City further approves the distribution of the final Official Statement in the reoffering of the Bonds by the underwriters or initial purchasers in final form, with such changes therein or additions thereto as City Manager or an Assistant City Manager may deem advisable.

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

(a) Annual Reports. The City shall provide annually to the Municipal Securities Rulemaking Board (the "MSRB"), in an electronic format as prescribed by the MSRB, within six months after the end of any fiscal year, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 3 of this Resolution, being the information described in Exhibit "C" hereto. Any financial statements to be so provided shall be (1) prepared in accordance with the accounting principles described in Exhibit "C" hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the

City shall provide unaudited financial statements within such period, and audited financial statements for the applicable fiscal year to the MSRB, when and if the audit report on such statements become available.

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

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document that is available to the public on the MSRB's internet web site or filed with the SEC. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

(b) Certain Event Notices. The City shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, of any of the following events with respect to the Bonds:

- A. Principal and interest payment delinquencies;
- B. Non-payment related defaults, if material within the meaning of the federal securities laws;
- C. Unscheduled draws on debt service reserves reflecting financial difficulties;
- D. Unscheduled draws on credit enhancements reflecting financial difficulties;
- E. Substitution of credit or liquidity providers, or their failure to perform;
- F. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other events affecting the tax status of the Bonds;
- G. Modifications to rights of holders of the Bonds, if material within the meaning of the federal securities laws;
- H. Bond calls, if material within the meaning of the federal securities laws and tender offers;
- I. Defeasances;
- J. Release, substitution, or sale of property securing repayment of the Bonds, if material within the meaning of the federal securities laws;
- K. Rating changes;

L. Bankruptcy, insolvency, receivership or similar event of the City;

M. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material within the meaning of the federal securities laws; and

N. Appointment of a successor or additional trustee or the change of name of a trustee, if material within the meaning of the federal securities laws.

The City shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (a) of this Section by the time required by such subsection. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

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

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

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

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

the Master Contract.

Should the Rule be amended to obligate the City to make filings with or provide notices to entities other than the MSRB, the City hereby agrees to undertake such obligation with respect to the Bonds in accordance with the Rule as amended.

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

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of the Refunding Bond Resolution that authorizes such an amendment) of the outstanding Bonds consents to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interest of the holders and beneficial owners of the Bonds. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with paragraph (a) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds.

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

SECTION 6. IMMEDIATE EFFECT. This Resolution shall take effect immediately from and after its adoption in accordance with the law.

PASSED AND APPROVED this August 18, 2016.

Mayor
City of Round Rock, Texas

ATTEST:

City Clerk

EXHIBIT "A"
BOND RESOLUTION

EXHIBIT "B"

FORM OF PRELIMINARY OFFICIAL STATEMENT

EXHIBIT "C"

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 4 of this Resolution.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

- (1) DEBT INFORMATION
- (2) APPENDIX B - Table 1 – Water Usage (Gallons)
- (3) APPENDIX B - Table 2 – Ten Largest Water And Sewer Customers
- (4) APPENDIX B - Table 3 – Monthly Water And Sewer Rates
- (5) APPENDIX B - Table 4 – Daily Flow (Wastewater Treatment)
- (6) APPENDIX B - Table 6 – Utility System Condensed Statement of Operations
- (7) APPENDIX B - Table 7 – Coverage Calculation
- (8) APPENDIX B - Table 8 – Current Investments

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the notes to the financial statements referred to in the paragraph above.

EXHIBIT "D"

APPROVAL CERTIFICATE

The undersigned _____ of the City of Round Rock, Texas, pursuant to the resolution adopted by the City Council on _____, 2016 (the "Approving Resolution") approving "A Resolution Approving a Resolution by the Board of Directors of the Brushy Creek Regional Utility Authority, Inc. Authorizing the Issuance of Brushy Creek Regional Utility Authority, Inc. City of Round Rock, Texas Contract Revenue Refunding Bonds, (Brushy Creek Regional Water Treatment and Distribution Project); Establishing the Procedures for Selling and Delivering the Bonds and Resolving Other Matters Incident and Relating to the Issuance, Payment, Security, Sale, and Delivery of Such Bonds" authorizing the issuance of obligations designated as "Brushy Creek Regional Utility Authority Inc., City of Round Rock, Texas Contract Revenue Refunding Bonds (Brushy Creek Regional Water Treatment and Distribution Project), Series 2016" (the "Bonds") do hereby approve the following terms of the Bonds:

- (i) the total principal amount of the Bonds of \$_____;
- (ii) the purchase price for the Bonds is \$_____;
- (iii) The dated date of the Bonds is _____, 2016;
- (iv) the interest rates and maturity schedule for the Bonds are as set forth below:

Year of Stated Maturity (_____ 1)	Principal Amounts (\$)	Interest Rates (%)
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Year of Stated Maturity (<u> 1 </u>)	Principal Amounts (\$)	Interest Rates (%)
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(v) the Bonds are subject to optional redemption as set forth below:

On _____ 1, 20__, or on any date thereafter, the Bonds of this series maturing on and after August 1, 20__ may be redeemed prior to their scheduled maturities, at the option of the Brushy Creek Regional Utility Authority Inc., with funds derived from any available and lawful source, at par plus accrued interest to the date fixed for redemption as a whole, or in part, and if less than all of a maturity is to be redeemed the Paying Agent/Registrar shall determine by lot the Bonds, or portions thereof within such maturity to be redeemed (provided that a portion of a Bond may be redeemed only in integral multiples of \$5,000 of principal amount).

(vi) Interest on the Bonds accrues from the date of delivery and interest is payable each _____ and _____, commencing _____, 20__.

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EXECUTED AND DELIVERED this ____ day of _____, 2016.

Title: _____
City of Round Rock, Texas