

# Legal Papers

PERTAINING  
TO

\$6,940,000  
BRUSHY CREEK MUNICIPAL UTILITY DISTRICT  
UTILITY SYSTEM REVENUE NOTE,  
SERIES 2016

TRANSCRIPT OF PROCEEDINGS

LAW OFFICES  
MCCALL, PARKHURST & HORTON L.L.P.  
600 CONGRESS AVENUE  
SUITE 1800  
AUSTIN, TEXAS 78701-3248

**\$6,940,000**  
**BRUSHY CREEK MUNICIPAL UTILITY DISTRICT**  
**UTILITY SYSTEM REVENUE NOTE,**  
**SERIES 2016**

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**CERTIFICATE FOR RESOLUTION**

**THE STATE OF TEXAS** §

**COUNTY OF WILLIAMSON** §

I, the undersigned officer of the Board of Directors of Brushy Creek Municipal Utility District hereby certify as follows:

1. The Board of Directors of Brushy Creek Municipal Utility District convened in a regular meeting on February 12, 2015 at the regular meeting place outside the boundaries of the District, and the roll was called of the duly constituted officers and members of the Board, to wit:

Rebecca B. Tullos	President
Russ Shermer	Vice President
Kim Filiatrault	Secretary
Donna B. Parker	Assistant Secretary/Treasurer
Shean R. Dalton	Treasurer

and all of said persons were present thus constituting a quorum. Whereupon, among other business, the following was transacted at the meeting: a written

**RESOLUTION AUTHORIZING APPLICATION TO THE  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY FOR  
APPROVAL OF PROJECT AND REVENUE NOTES**

was introduced for the consideration of the Board. It was then duly moved and seconded that the Resolution be adopted; and, after due discussion, the motion, carrying with it the adoption of the Resolution, prevailed and carried by the following vote:

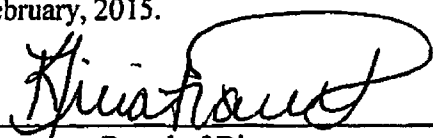
Ayes: 5

Nays: 0

2. That a true, full and correct copy of the aforesaid Resolution was adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; that the Resolution has been duly recorded in the Board's minutes of the meeting; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the Board as indicated therein; that each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid meeting, that the Resolution would be introduced and considered for adoption at the meeting, and each of the officers and members consented, in advance, to the holding of the meeting for such purpose; that the meeting was open to the public as required by law; and that public notice of the time, place and subject of the meeting was given as required by Chapter 551, Texas Government Code, and Section 49.063, Texas Water Code.

SIGNED AND SEALED on this 12th day of February, 2015.

(SEAL)

  
\_\_\_\_\_  
Secretary, Board of Directors



RESOLUTION 15-0212-01

AUTHORIZING APPLICATION TO THE  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY FOR  
APPROVAL OF PROJECT AND REVENUE NOTES

WHEREAS, Brushy Creek Municipal Utility District (the "District") is a political subdivision of the State of Texas, created and operating under Chapters 49 and 54, Texas Water Code; and

WHEREAS, the District desires to issue \$8,000,000 in revenue notes to finance construction of the expansion of the Brushy Creek Municipal Utility District Community Center and improvements related thereto, in addition to paying certain costs of issuance of the notes; and

WHEREAS, Section 49.153, Texas Water Code, requires the District, when it desires to issue revenue notes for a term longer than three years, to obtain an order approving the notes from the Texas Commission on Environmental Quality;

WHEREAS, the Board of Directors desires to secure the approval and consent of the Texas Commission on Environmental Quality for the issuance of revenue notes to finance the construction of the aforementioned recreation improvements, and certain costs related thereto, which is more completely described in the engineering report submitted in connection with this application; Now, Therefore,

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF BRUSHY CREEK MUNICIPAL UTILITY DISTRICT THAT:

Section 1: The General Manager, President and Secretary of the Board of Directors are hereby authorized and directed as follows:

- (1) To make application to the Texas Commission on Environmental Quality for review and approval of the District's constructing and improving the Brushy Creek Municipal Utility District Community Center described in the engineering report prepared by Jones-Heroy & Associates, Inc. in connection with this application, such project to consist generally of recreation and parking facilities, and costs related thereto, to serve the residents in the Brushy Creek Municipal Utility District;
- (2) To request the Texas Commission on Environmental Quality to approve revenue notes of the District in the principal amount of not to exceed \$8,000,000, bearing interest at a net effective interest rate not to exceed the maximum legal limit in effect at the time of issuance of said notes, and maturing serially in accordance with the schedule provided in the aforesaid engineering report;

Section 2: By this application, the District assures the Texas Commission on Environmental Quality that it will abide by all terms and conditions prescribed by the Commission.

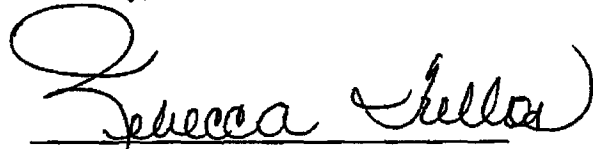
Section 3: Jones-Heroy & Associates, Inc. is authorized and directed to prepare an engineering report in the form required by the Texas Commission on Environmental Quality and to submit same to the Commission in support of this application, together with a copy of the data, profiles, maps, plans, and specifications prepared in connection with such report.

Section 4: The General Manager, President and Secretary of the Board of Directors, the District's engineers, the District's attorneys, and the District's financial advisors are authorized and directed to do any and all things necessary and proper in connection with this application.

Section 5: A certified copy of this resolution shall constitute an application and request on behalf of the District to the Texas Commission on Environmental Quality pursuant to Section 49.153, Texas Water Code, for approval of the project and issuance of the revenue notes.

Section 6: The Board of Directors hereby approves the payment of all filing fees to TCEQ in connection with the application and requests that are the subject of this Resolution.

PASSED AND APPROVED the 12th day of February, 2015.

  
\_\_\_\_\_  
President, Board of Directors

ATTEST:

  
\_\_\_\_\_  
Secretary, Board of Directors

(SEAL)

Custodian of the Records of Brushy Creek Municipal Utility District does hereby certify that the attached is a true and correct copy of the Resolution Authorizing Application to the Texas Commission on Environmental Quality for Approval of Project and Revenue Notes the original of which has been submitted to the TCEQ.

  
\_\_\_\_\_  
Margie Antles, Executive Assistant

Date: December 8, 2015

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS  
COUNTY OF TRAVIS  
I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY  
OF A TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
DOCUMENT, WHICH IS FILED IN THE PERMANENT RECORDS

MAY - 6 2015

OF THE COMMISSION, GIVEN UNDER MY HAND AND THE  
SEAL OF OFFICE ON

*Budget C. Cohen*  
BUDGET C. COHEN, CHIEF CLERK  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

## AN ORDER APPROVING THE ISSUANCE OF AN \$8,000,000 REVENUE NOTE FOR BRUSHY CREEK MUNICIPAL UTILITY DISTRICT OF WILLIAMSON COUNTY

An application by Brushy Creek Municipal Utility District of Williamson County (District) was presented to the Executive Director of the Texas Commission on Environmental Quality (TCEQ) for consideration of approval pursuant to TEX. WATER CODE §§ 5.122 and 49.153. The District requests approval of the issuance of an \$8,000,000 revenue note to finance the construction and related costs of recreational center expansion. The TCEQ has jurisdiction to consider this matter, and the following Findings of Fact and Conclusions of Law are appropriate after examining the application and supporting documentation.

### FINDINGS OF FACT

1. The District filed an application with the TCEQ on March 31, 2015 for approval of the issuance of an \$8,000,000 revenue note.
2. The Executive Director of the TCEQ has investigated the District.
3. The application and accompanying documents have been examined. A written memorandum was prepared on the project dated April 15, 2015, along with addendum no. 1 dated April 27, 2015, copies of which are attached and made a part hereof.
4. The District's issuance of the \$8,000,000 revenue note at a maximum net effective interest rate of 4.41% should be approved.
5. The District's board should be directed to ensure that operating revenues are sufficient to meet operating expenses and debt service requirements on revenue debt.
6. The District should be advised that the legal, fiscal agent, and engineering fees have not been evaluated to determine whether these fees are reasonable or competitive. These fees are included as presented in the engineering report.

### CONCLUSIONS OF LAW

1. The TCEQ has jurisdiction to consider the revenue note application pursuant to TEX. WATER CODE § 49.153.

2. The Executive Director of the TCEQ has investigated the District, and the TCEQ has found it legally organized and feasible.

3. The memorandum dated April 15, 2015, along with addendum no. 1 dated April 27, 2015, on this revenue note issue, and this Order, should be adopted as the written TCEQ report in compliance with TEX. WATER CODE § 49.153.

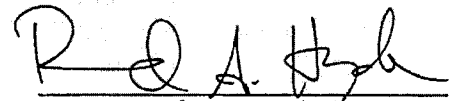
NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that the memorandum dated April 15, 2015, along with addendum no. 1 dated April 27, 2015, on this revenue note issue, and this Order, is adopted as the written TCEQ report. Pursuant to TEX. WATER CODE § 49.153, the request by Brushy Creek Municipal Utility District of Williamson County for the issuance of an \$8,000,000 revenue note at a maximum net effective interest rate of 4.41% is hereby approved. The District's board is directed to ensure that operating revenues are sufficient to meet operating expenses and debt service requirements on revenue debt. The District is advised that the legal, fiscal agent, and engineering fees have not been evaluated to determine whether these fees are reasonable or competitive. These fees are included as presented in the engineering report.

BE IT FURTHER ORDERED that failure of said District to comply with all applicable laws and with provisions of this Order shall subject the District and its directors to all penalties that are provided by law and shall further be considered by the TCEQ as grounds for refusal to approve other bonds of the District.

The Chief Clerk of the TCEQ is directed to forward the District a copy of this Order.

If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date: **May 1, 2015**

  
For the Commission

# Texas Commission on Environmental Quality

## TECHNICAL MEMORANDUM

*FCR*  
*4/15/15*  
**To:** Justin P. Taack, Manager  
Districts Section

**Date:** April 15, 2015

*4/15/15*  
**Thru:** Seyed Miri, P.E., Leader  
Districts Creation Review Team

*4/15/15*  
**From:** Ren Berra  
Districts Creation Review Team

**Subject:** Brushy Creek Municipal Utility District of Williamson County; Application for Approval of \$8,000,000 in Revenue Bonds, Sixteenth Issue, 4.41% Net Effective Interest Rate, Series 2015; Pursuant to Texas Water Code § 49.181. TCEQ Internal Control No. D-03312015-043 (TC)  
CN: 600646574 RN: 101438109

### A. GENERAL INFORMATION

The Texas Commission on Environmental Quality (TCEQ) received an application from Brushy Creek Municipal Utility District of Williamson County (District) requesting approval for the issuance of \$8,000,000 in revenue bonds to finance the District's share of costs for the following project:

- Recreation Center Expansion.

Application material indicates that the District was providing water, wastewater, and solid waste services to 6,636 equivalent single-family connections (ESFCs), including 801 ESFCs within its Defined Area, in 2014.

### B. ECONOMIC ANALYSIS

#### Tax Rate Analysis

The economic feasibility of this bond issue is based on no-growth to the existing 6,636 ESFCs and secured by revenue earned by the District from its customers. A market study has not been provided and is not required since the feasibility is based on no-growth.

The annual debt service requirement for a bond amount of \$8,000,000 averages \$537,370 for the 24-year life of the District's bond debt. According to the information on file, in 2014 the District levied a \$0.25 maintenance tax and it levied no Defined Area maintenance tax.

The District's financial advisor submitted a cash flow schedule considering the requested \$8,000,000 revenue bond issue, no-growth to 6,636 ESFCs, a bond interest rate averaging 4.375%, and \$1,153,439 (\$7,749,593 in revenue minus \$6,596,154 in expenses) in operating

funds available for debt service. The TCEQ's Districts Section's financial analyst has reviewed the financial information submitted and concluded that the revenue generated by the District is adequate to cover the annual debt service requirement on proposed revenue debt, as well as operation and maintenance expenses.

### C. ENGINEERING ANALYSIS

#### Water Supply

Water supply for entire District is provided by a combination of groundwater from primarily one of five wells within the District and surface water pursuant to the "System Water Supply Agreement between Brazos River Authority and Brushy Creek Municipal Utility District" dated February 26, 1997. This agreement allows the purchase of 4,000 acre-feet of water per year from the Stillhouse Hollow Reservoir. The District participates with others in the Williamson County Regional Raw Water Supply project to transfer raw water from Stillhouse Hollow Reservoir to Lake Georgetown. Pursuant to the "Participation Agreement With Respect To Williamson County Raw Water Line" dated October 1, 1998, as amended, the District owns capacity and is responsible for 9.551% of the regional raw water project.

The District has an intake structure and pumping facilities at Lake Georgetown, a raw water line to the District, raw water holding ponds, a drinking water treatment plant, clear well and water storage facilities, pump station, and the treated water lines and related system improvements necessary to furnish a drinking water supply to the District's customers. The intake has been constructed to provide 10 million gallons per day (MGD) of water. The raw water line has a capacity of 10 MGD. The pump station is designed to meet the maximum daily and hourly needs of the District at full build-out. The maximum daily needs at full build-out are projected to be 8 MGD.

The Sendero Springs portion of the Defined Area is connected to the District's water distribution system and receives water from the District's 300,000 gallon elevated storage tank. The Cornerstone portion of the Defined Area is connected to the District's water distribution system and receives water through a transmission main and the District's 750,000 gallon elevated storage tank.

The following table summarizes the entire District's existing water supply facilities, along with the ESFC capacity of each component based on minimum criteria per 30 TAC § 290.45:

<u>Facility</u>	<u>Minimum Requirements</u>	<u>Total Capacity (ESFC Capacity)</u>
Wells	0.6 gpm/ESFC	694 gpm <sup>(1)</sup> (1,157 ESFCs)
Surface Water Supply	360 gpd/ESFC	4,000 acre-ft <sup>(2)</sup> (9,876 ESFCs)
Intake Pump Station	0.6 gpm/ESFC	4,861 gpm (8,102 ESFCs)
Treatment Facility	0.6 gpm/ESFC	4,319 gpm (7,198 ESFCs)
Ground Storage	200 gal/ESFC	2,877,000 gal (19,635 ESFCs) <sup>(3)</sup>

Elevated Storage	100 gal/ESFC	1,050,000 gal <sup>(4)</sup> (10,500 ESFCs)
Booster Pumps	2.0 gpm/ESFC	9,600 gpm (4,800 ESFCs)

- Notes: (1) Represents the District's one well in use and four groundwater wells temporarily out of service.  
(2) Total authorized of 4,000 acre-feet per year times 43,560sq.feet per acre times 7.448 gallons per ft<sup>3</sup> divided by 365 days per year divided by the 360 gpd criteria in Bond Application Report Format.  
(3) Total storage of 3,927,000 (2,877,000 ground + 1,050,000 elevated) provides for 19,635 ESFCs at 200 gallons per ESFC.  
(4) Sendero Springs and Brushy Creek North are serviced by the 300,000 gal North Elevated tank and Cornerstone is serviced by the 750,000 gal Neenah Elevated tank.

The District has four emergency interconnects, three with the City of Round Rock and one with Fern Bluff Municipal Utility District. All interconnects are normally closed.

The District's existing water supply facilities are currently capable of serving approximately 7,198 ESFCs. Therefore, the District's existing water supply facilities appear adequate to serve the 6,636 ESFCs within the District including the 801 ESFCs within the Defined Area upon which the feasibility of this bond issue is based.

#### Wastewater Treatment

The Brushy Creek Regional Wastewater Treatment Plant provides wastewater treatment for the Defined Area as well as for the entire District. The plant, constructed by the Lower Colorado River Authority (LCRA) for the purpose of providing wholesale wastewater collection and treatment for the customers within its service area, was purchased by the Cities of Round Rock, Cedar Park, and Austin on September 10, 2009. Texas Pollutant Discharge Elimination System permit no. WQ0010264002 authorizes the plant to discharge a final flow of 21.5 MGD. Pursuant to the "Wastewater Service Agreement" dated December 8, 2009, the District has a contractual flow commitment in the plant of 1.85 MGD and a reserved capacity in its lines to provide wastewater service for 7,129 ESFCs.

Therefore, the District's existing wastewater treatment capacity of 7,129 ESFCs appears adequate to serve the 6,186 ESFCs (6,636 water ESFCs less 229 irrigation meter ESFCs less 221 ESFCs for out-of-district water customers with homes on septic systems) within the District including the 801 ESFCs within the Defined Area upon which the feasibility of this bond issue is based.

#### Storm Water Drainage

Storm water within the Sendero Springs and Brushy Creek North is collected by open roadside ditches, culverts and open channels, or underground systems, and/or detention ponds which naturally discharge into Onion Creek or Honey Bear Creek and then Brushy Creek.

Storm water within the northern part of the southern portion of the District flows through a system of underground piping and ditches which outfalls into Brushy Creek. The drainage from the smaller part of the southern District is collected by underground piping, open roadside ditches, and natural drainage ways to Lake Creek.

#### Purchase of Facilities and/or Assumption of Existing Contracts

None.

Justin P. Taack, Manager

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April 15, 2015

Facilities to be Constructed

<u>Project</u>	<u>Estimated Cost</u>	<u>District's Share</u>
Recreation Center Expansion	\$6,388,105	\$6,388,105

Approved plans and specifications have not been provided for the projects.

Inspection

The District was inspected by a member of the Utilities and Districts Section staff on April 4, 2015. The District appeared as represented in application material. District name signs were posted.

**D. SUMMARY OF COSTS**

Construction Costs

	<u>District's Share</u>
A. Developer Contribution Items	
None	-0-
Total Developer Contribution Items	\$ -0-
B. District Items	
1. Recreation Center and Gym	\$ 5,075,650
2. Demo and Renovation	501,689
3. Design Costs	335,766
4. Furniture	475,000
5. Engineering	64,234
6. Contingency (18% of Items 1-5)	<u>1,161,421</u>
TOTAL CONSTRUCTION COSTS (92.5% of Bond Issue Requirement)	\$ 7,613,760

Non-construction Costs

A. Legal Fees (1%)	\$ 80,000 <sup>(1)</sup>
B. Fiscal Agent Fees (1.2%)	95,000 <sup>(2)</sup>
C. Bond Discount (2%)	160,000
E. Bond Issuance Expenses	8,240
F. Bond Engineering Report	15,000
G. Attorney General's Fee (0.10%)	8,000
H. TCEQ Bond Issuance Fee (0.25%)	<u>20,000</u>
TOTAL NON-CONSTRUCTION COSTS	\$ <u>386,240</u>
<b>TOTAL BOND ISSUE REQUIREMENT</b>	<b>\$ 8,000,000</b>

Notes: (1) Pursuant to the contract provided fees are 1% of the total bonds issued, with a \$20,000 minimum.

(2) Pursuant to the contract provided, fees for bond amounts less than \$3,000,000 are based on \$15.00 per \$1,000 of bonds issued. Fees for bond amounts greater than \$3,000,000 are based on \$10.00 per \$1,000 of bonds issued.

**E. SPECIAL CONSIDERATIONS**

None.



Justin P. Taack, Manager

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April 15, 2015

**F. CONCLUSIONS**

1. Based on the review of the application and supporting documents, the revenue bond issue is considered feasible and meets the criteria established by the TCEQ's economic feasibility rules, 30 Texas Administrative Code § 293.59.
2. The recommendations are made under authority delegated by the Executive Director of the TCEQ.

**G. RECOMMENDATIONS**

1. Approve the revenue bond issue in the amount of \$8,000,000 in accordance with the recommended summary of costs, at a maximum net effective interest rate of 4.41%.
2. Direct the District's board to ensure that system revenue is adequate to meet operating expenses and debt service requirements on revenue debt.
3. Direct the District's board not to expend \$7,346,321 (\$6,388,105 construction plus \$958,216 contingencies) for Recreation Center expansion pending District board receipt of plans and specifications approved by all entities with jurisdiction.
4. Standard recommendations regarding consultant fees, surplus proceeds, time of approval, and bond proceeds fee apply.

# Texas Commission on Environmental Quality

## TECHNICAL MEMORANDUM

*Fqr*  
*4/27/15*  
**To:** Justin P. Taack, Manager  
Districts Section

**Date:** April 27, 2015

*4/27/15*  
**Thru:** Seyed Miri, P.E., Leader  
Districts Creation Review Team

*4/27/15*  
**From:** Ren Berra  
Districts Creation Review Team

**Subject:** Addendum No. 1 to the Memorandum dated April 15, 2015. Subject: "Brushy Creek Municipal Utility District of Williamson County; Application for Approval of \$8,000,000 in Revenue Bonds, Sixteenth Issue, 4.41% Net Effective Interest Rate, Series 2015; Pursuant to Texas Water Code § 49.181." TCEQ Internal Control No. D-03312015-043 (ADD) CN: 600646574 RN: 101438109

The above referenced Memorandum is revised in its entirety to reflect the District's request to issue revenue notes, instead of revenue bonds, to finance the construction and related costs of the expansion of the Brushy Creek Municipal Utility District Community Center.

**Subject:** Brushy Creek Municipal Utility District of Williamson County; Application for Approval of an \$8,000,000 Revenue Note, 4.41% Net Effective Interest Rate, Series 2015; Pursuant to Texas Water Code § 49.153.

### A. GENERAL INFORMATION

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- Recreation Center Expansion.

Application material indicates that the District was providing water, wastewater, and solid waste services to 6,636 equivalent single-family connections (ESFCs), including 801 ESFCs within its Defined Area, in 2014.

### B. ECONOMIC ANALYSIS

#### Tax Rate Analysis

The economic feasibility of this Note is based on no-growth to the existing 6,636 ESFCs and secured by revenue earned by the District from its customers. A market study has not been provided and is not required since the feasibility is based on no-growth.

Justin P. Taack, Manager

Page 2

April 27, 2015

The annual debt service requirement for an \$8,000,000 Note averages \$537,370 for the 24-year life of the Note.

The District's financial advisor submitted an amortization schedule for the requested \$8,000,000 Note, no capitalized interest, no-growth to 6,636 ESFCs, an interest rate averaging 4.375%, and \$1,153,439 (\$7,749,593 in revenue minus \$6,596,154 in expenses) in operating funds available for Note payments. The TCEQ's Districts Section's financial analyst has reviewed the financial information submitted and concluded that operating revenues generated by the District are expected to be sufficient for operating expenses and the projected annual Note payments.

#### Additional Financial Comments

Based on the District's current rate order, the District charges a base rate of \$14.00 for monthly water and \$6.00 monthly for wastewater service for residential customers (\$37.42 and \$12.00 for out-of-district). In addition to the base rate, District customers are assessed a gallonage charge. Based on the rate schedule contained in the District's current rate order, the cost for 10,000 gallons of water and wastewater would be \$71.25 (\$181.67 for out-of-district).

### **C. ENGINEERING ANALYSIS**

#### Water Supply

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Justin P. Taack, Manager

Page 3

April 27, 2015

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Booster Pumps	2.0 gpm/ESFC	9,600 gpm (4,800 ESFCs)

- Notes: (1) Represents the District's one well in use and four groundwater wells temporarily out of service.  
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(3) Total storage of 3,927,000 (2,877,000 ground + 1,050,000 elevated) provides for 19,635 ESFCs at 200 gallons per ESFC.  
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Therefore, the District's existing wastewater treatment capacity of 7,129 ESFCs appears adequate to serve the 6,186 ESFCs (6,636 water ESFCs less 229 irrigation meter ESFCs less 221 ESFCs for out-of-district water customers with homes on septic systems) within the District including the 801 ESFCs within the Defined Area.

Storm Water Drainage

Storm water within the Sendero Springs and Brushy Creek North is collected by open roadside ditches, culverts and open channels, or underground systems, and/or detention ponds which naturally discharge into Onion Creek or Honey Bear Creek and then Brushy Creek.

Storm water within the northern part of the southern portion of the District flows through a system of underground piping and ditches which outfalls into Brushy Creek. The drainage from the smaller part of the southern District is collected by underground piping, open roadside ditches, and natural drainage ways to Lake Creek.

Purchase of Facilities and/or Assumption of Existing Contracts

None.

Facilities to be Constructed

<u>Project</u>	<u>Estimated Cost</u>	<u>District's Share</u>
Recreation Center Expansion	\$6,388,105	\$6,388,105

Approved plans and specifications have not been provided for the project.

**D. SUMMARY OF COSTS**

Construction Costs

	<u>District's Share</u>
A. Developer Contribution Items	
None	-0-
Total Developer Contribution Items	\$ -0-
B. District Items	
1. Recreation Center and Gym	\$ 5,075,650
2. Demo and Renovation	501,689
3. Design Costs	335,766
4. Furniture	475,000
5. Engineering	64,234
6. Contingency (18% of Items 1-5)	<u>1,161,421</u>
<b>TOTAL CONSTRUCTION COSTS (92.5% of Note Requirement)</b>	<b>\$ 7,613,760</b>
<u>Non-construction Costs</u>	
A. Legal Fees (1%)	\$ 80,000 <sup>(1)</sup>
B. Fiscal Agent Fees (1.2%)	95,000 <sup>(2)</sup>
C. Note Discount (2%)	160,000
E. Note Issuance Expenses	28,240
F. Engineering Report	15,000
G. Attorney General's Fee (0.10%)	<u>8,000</u>
<b>TOTAL NON-CONSTRUCTION COSTS</b>	<b>\$ <u>386,240</u></b>
<b>TOTAL NOTE REQUIREMENT</b>	<b>\$ 8,000,000</b>

Notes: (1) Pursuant to the contract provided fees are 1% of the total notes issued, with a \$20,000 minimum.  
 (2) Pursuant to the contract provided, fees for note amounts less than \$3,000,000 are based on \$15.00 per \$1,000 of notes issued. Fees for note amounts greater than \$3,000,000 are based on \$10.00 per \$1,000 of notes issued.

Justin P. Taack, Manager

Page 5

April 27, 2015

**E. SPECIAL CONSIDERATIONS**

None.

**F. CONCLUSIONS**

1. Based on the review of the application and supporting documents, the Note is considered feasible and meets the criteria established by the TCEQ's economic feasibility rules, 30 Texas Administrative Code § 293.59.
2. The recommendations are made under authority delegated by the Executive Director of the TCEQ.

**G. RECOMMENDATIONS**

1. Approve the Note in the amount of \$8,000,000 in accordance with the recommended summary of costs, at a maximum net effective interest rate of 4.41%.
2. Direct the District's board to ensure that operating revenues are sufficient to meet operating expenses and debt service requirements on revenue debt.
3. Standard recommendations regarding consultant fees, surplus proceeds, time of approval, and note proceeds fee apply.

**AFFIDAVIT OF PUBLICATION**

**THE STATE OF TEXAS**


'

'


**COUNTY OF WILLIAMSON**

'

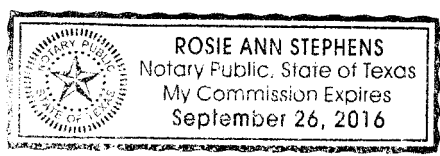
**BEFORE ME**, a Notary Public in and for the State of Texas, on this day personally appeared the person whose name is subscribed below, who, having been sworn, says upon oath that he or she is a duly authorized officer or employee of the *Austin American-Statesman*, which is a newspaper as defined in Section 2051.044, Government Code, as amended, and which is of general circulation in Williamson County, Texas; and that a true and correct copy of the NOTICE OF SALE, a clipping of which is attached to this Affidavit, was published in said newspaper on Wednesday, November 25, 2015.

  
\_\_\_\_\_  
Authorized Officer or Employee

**SUBSCRIBED AND SWORN TO BEFORE ME**, this the 25 day of NOV, 2015.

  
\_\_\_\_\_  
Notary Public

(NOTARY PUBLIC SEAL)



**Notices**

Contract, the Bidder will, (7) days of award of Contract to a contract and execute the forms provided in Documents. The Owner right to reject any or all waive any and all formal- ing. The Owner reserves determine which Bids are in the best interest of nd to award the Contract . The Bid security of suc- r will be retained until has executed the Agree- ed the required Contract met the other conditions e of Award, whereupon it will be returned. If the dder fails to execute and greement and furnish the ract security within sev- ter the Notice of Award, inful the Notice of Award ecurity of that Bidder will . The Bid security of the s whom Owner believes to nable chance of receiving ay be retained by Own- arlier of the seventh day eptive Date of the Agree- sixtieth (60th) day after ing, whereupon Bid secur- y by such Bidders will be d security with Bids which petitive will be returned days after Bid opening. e ment for Bids includes a tement of Qualifications : minimum qualifications : met in order for the Bid red. Hamilton Bee Cave, a non-mandatory pre-bid at LJA Engineering, Inc., 10 West, Suite 150, Austin, at 2:00 p.m., Friday, De- 15, to discuss the process jired qualifications state- tement of Qualifications d signatures must be sub- : Engineer with the bid, no 00 p.m., Friday, December m each interested Bidder. 015 #517799

**r Bid**

ound Rock will be accept- id responses addressed to ound Rock - City Hall Re- sking, 1st Floor, Attn: Pur- artment, 221 East Main d Rock, Texas 78664-5299 wing:

15: Water Meter Box An-

documents may be ob- e the Purchasing Depart- above address download- City's website at:

oundrocktexas.gov/de- urchasing/solicitations/ ctive-solicitations/ 015 #517826

ITATION TO BID ION OF A LIMESTONE K RETAINING WALL LLINGWOOD, ROLLING- OOD, TEXAS CT NUMBER 151004

or the construction of the of a LIMESTONE BLOCK VALL for the City of Roll- as shall be addressed to gwood, 403 Nixon Drive, J, Texas 78746. Sealed bids ved until 10:00 am on Fri- er 18, 2015, at which time publicly opened and read

based on a unit price con- e of ambiguity or lack of ating proposal prices, the gwood reserves the right : most advantageous price to reject any or all bids, nformalities. No bid may wn within forty-five (45) re date on which bids are ls shall be based on con- struction on or about thir- dar days after the project

the work includes provid- r, materials, equipment, s necessary for the con- struction of the installa- TONE BLOCK RETAINING wn on the Drawings and ns in accordance with the uments. The project site proximately 400 ft east of he City of Rollingwood. uments, which include s and Specifications, may fee of charge at the City City of Rollinawood. Con-

**Legal Notices**

Hall in City of Rollingwood. The Contract Documents remain the property of Willis Environmental Engineering and shall not be reused on any other project without written consent of the City of Rollingwood and Willis Environmental Engineering, Inc. A "Bid Guarantee" in an amount not less than five percent (5%) of the bid price consisting of a firm commitment, such as a bid bond or certified check payable to the City of Rollingwood, must accompany each bid as assurance that the bidder will, upon acceptance of his bid, promptly enter into a contract for construction of the project according to the Contract Documents. CONTRACTOR shall visit the Site and become familiar with and be satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work. CONTRACTOR shall provide conformation of the site visit in the bid package. CONTRACTOR shall be familiar with all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work. 11-25, 12-3/2015 #517206

**LEGAL NOTICE**  
Application has been made with the Texas Alcoholic Beverage Commission for a Wine and Beer Retailers Permit and Food and Beverage Certificate by Galaxy Highland, LLC dba Galaxy Highland 10, to be located at 6700 Middle Fiskville Rd Suite 201, Austin, Travis County, Texas. Officers of said LLC are Rafe Cohen, President and Frank Rimkus, Secretary/Treasurer.

11-24, 11-25/2015 #517419

**NOTICE OF PUBLIC HEARING TO DISCUSS HARMONY PUBLIC SCHOOLS STATE FINANCIAL ACCOUNTABILITY RATING**  
As part of the December 14, 2015 Board of Directors Regular Meeting, Harmony Public Schools will hold a public hearing to discuss the HPS Schools' 2014-2015 Financial Rating Systems of Texas (FIRST) accountability ratings. The meeting will be held at 6:00 p.m. in the Multipurpose Room, located at 9321 W Sam Houston Pkwy S, Houston, TX 77099. 11-18, 25/2015 #513584

**NOTICE OF SALE**  
BRUSHY CREEK MUNICIPAL UTILITY DISTRICT  
WATERWORKS AND SEWER SYSTEM REVENUE NOTE, SERIES 2016 (A political subdivision of the State of Texas located in Williamson County, Texas) \$6,940,000\*

**PRIVATE PLACEMENT OFFERING**  
Bids Due: Tuesday, December 8, 2015 at 12:00 p.m., C.S.T.  
Award of Sale: Thursday, December 10, 2015 at 6:00 p.m., C.S.T.

**Place and Time of Sale:** The Board of Directors of the District will receive sealed bids for the above described revenue note (the "Note") on Tuesday, December 8, 2015 at 12:00 p.m., C.S.T., at the office of Robert W. Baird & Co., attention Jan Bartholomew, phone number (713) 230-6121, Financial Advisor to the District. The Board of Directors of the District will consider awarding the sale of the Note on Thursday, December 10, 2015 at 6:00 p.m., C.S.T., at the designated meeting place inside the boundaries of the District, at Brushy Creek Municipal Utility District Offices, 16318 Great Oaks Drive, Round Rock, Texas 78681-5685. The Board will immediately take action to reject any and all bids or accept the bid that produces the lowest net effective interest rate for the Note. All bids must be submitted pursuant to the Private Placement Term Sheet and Bid Form attached thereto (the "Term Sheet"), which is available from the Financial

**Legal Notices**

**Address of the Bids/Bids Delivered in Person:** Sealed bids on the Bid Form as attached to the Term Sheet should be addressed to the Board of Directors of Brushy Creek Municipal Utility District, and if delivered in person, delivered to Jan Bartholomew, Robert W. Baird & Co. Incorporated, 1331 Lamar Street, Suite 1360, Houston, Texas 77010, by 12:00 p.m., C.S.T., on Tuesday, December 8, 2015.

**Purchase and Investment Letter:** The winning bidder must sign a Purchase and Investment Letter, where the winning bidder, among other things, must certify it is an "accredited investor" within the meaning of Section 2(a)(15) of the Securities Act of 1933, as amended (the "Act"), and a "qualified institutional buyer" as defined in Section (a)(1) of Rule 144A under the Act and must agree to certain restrictions on transfers of the Note as further described in the Purchase and Investment Letter.

**Information:** The District reserves the right to reject any and all bids and to waive any and all irregularities except time of filing. This notice does not constitute an offer to sell the Note, but is merely notice of sale of the Note as required by law. The District will use the proceeds from the sale of the Note to finance the engineering and construction of the expansion of the District's community center for additional recreational facilities and to pay costs of issuance related to the Note.

**Risk Factors:** The Note and the interest thereon will be payable solely from the net revenues of the District's water and wastewater system as further described in the Term Sheet. The District will not prepare and distribute an Official Statement or any other offering materials relating to the Note and makes no representations concerning the District's condition, financial or otherwise, or investment considerations relating to purchase of the Note. Each prospective purchaser is urged to make its own investigation of such matters, with which the District agrees to cooperate.

Information concerning the Note and the proposed sale thereof is available upon request from the Financial Advisor.

Board of Directors  
Brushy Creek Municipal Utility District

\*Preliminary, subject to change. The District reserves the right to modify the installment amounts to ensure level debt service upon receipt of the proposed interest rate. 11-25/2015 #517717

**ORDINANCE NO. 20151119-059 AN ORDINANCE AMENDING CITY CODE CHAPTERS 2-9A, 2-9B, 2-9C, AND 2-9D EXTENDING THE MINORITY-OWNED AND WOMEN-OWNED BUSINESS ENTERPRISE PROCUREMENT PROGRAM AND REVISING THE SUNSET DATE.**

Mayor, Steve Adler - City of Austin

**ORDINANCE NO. 20151119-080 AN ORDINANCE AMENDING CITY CODE CHAPTERS 25-2 AND 25-6 RELATING TO ACCESSORY DWELLING UNITS.**

Mayor, Steve Adler - City of Austin

**ORDINANCE NO. 20151119-092 AN ORDINANCE AMENDING CITY CODE CHAPTER 25-2, SUBCHAPTER B, REGARDING PLANNED UNIT DEVELOPMENTS.**

Mayor, Steve Adler - City of Austin

**ORDINANCE NO. 20151119-098 AN ORDINANCE AMENDING CITY CODE CHAPTERS 15-6 (SOLID WASTE SERVICES) AND 25-11 (BUILDING, DEMOLITION, AND RELOCATION PERMITS; SPECIAL REQUIREMENTS FOR HISTORIC STRUCTURES) RELATING TO DIVERSION AND DISPOSAL OF CONSTRUCTION AND DEMOLITION MATERIALS; AND CREATING A PENALTY.**

Mayor, Steve Adler - City of Austin  
11-25/2015 #517816

statesman.com/classifieds

**Legal Notices**

**REQUEST FOR PROPOSALS**  
Mechanical Improvements to Highland Park Elementary School, including a new Tower, Boiler and Loop Systems

**Kencon Constructors/Construction Managers, Ltd.,** Construction Manager-at-Risk for AISD Project No. 14-0004-HIPRK at Highland Park Elementary School requests competitive proposals to perform the construction of the work described in connection with this project. Proposals from qualified subcontractors will be accepted for this work.

Pre-bid meeting will be held at 2:00 PM, Wednesday, December 2, 2015 at Highland Park Elementary School, 4900 Fairview Drive, Austin, Texas 78731, in the library.

Proposals are due Wednesday, December 9, 2015, at 4:00 PM. Proposals should be faxed to (210) 590-8120, e-mailed to [bids@kenconitd.com](mailto:bids@kenconitd.com), or mailed/delivered to the Kencon office, at 4823 Whirlwind, San Antonio, Texas 78217.

Plans and specifications will be available November 20, 2015 to download for free at: [www.planroom.millerids.com](http://www.planroom.millerids.com) or if you want a hard copy they are available from Miller IDS, 1000 E. 7th St, Austin, TX 78702, (512) 381-5292, [planroom@millerids.com](mailto:planroom@millerids.com)

Plans and specifications will also be available on November 20, 2015 in the following plan rooms: AGC Austin, AGC San Antonio, iSqFT, Virtual Builders Exchange, Reed Construction Data, McGraw Hill Dodge.

Please contact CMR Project Mgr, Andy Koebel, at [bids@kenconitd.com](mailto:bids@kenconitd.com) and/or (210) 590-7909 ext. 15 for additional information on this project.

All MBE/WBE/HUB subcontractors/suppliers are strongly encouraged to submit proposals. The Owner reserves the right to waive any informality and to reject any or all proposals. 11-18, 11-25/2015 #513553

**Statesman Legal Notices**

To place your legal notice, please email it to: [legals@statesman.com](mailto:legals@statesman.com)

Charges vary depending on the day of the week. Please call 512-445-3832 or email [legals@statesman.com](mailto:legals@statesman.com) for rates, deadlines and any other questions.

All published Legal Notices are placed online at no additional charge on [statesman.com/classifieds](http://statesman.com/classifieds).

For notices with a legal requirement of publication in a Spanish language paper, *ahora sí!*, a product of the Austin American-Statesman, publishes each Thursday.

An affidavit of Publication is provided for each Legal Notice.

**Tequilas-Delgadillo LLC, Juan M. Delgadillo, Managing Member has applied for a Mixed Beverage & Late Hours Permit with the Texas Alcoholic Beverage Commission d/b/a Tekila's Mexican Food, 717 E. Ben White Blvd, Austin, Travis, TX 11-24, 11-25/2015 #517349**

The City of Pflugerville, Texas will be soliciting bids for furnishing all labor, materials, tools and equipment and performing all work required for construction of improvements to the North Travis County Municipal Utility District #5 (NTCMUD #5) Water Distribution Service Projects Phase 2 on Thursday, December 17, 2015. This project includes three PRV installations on existing water lines, 179 linear feet of new 12" water line and 6,932 LF of new 16" water line along Pflugerville Parkway, the Hill Country Bible Church property and Black Locust Drive.

Copies of the specifications and bid documents will be on file and may be

**Legal Notices**

Office, 15500 Sun Light Near Way #B, Pflugerville, Texas  
www.civcastusa.com, Project ID - "NTCMUD#5 Phase 2"

Separate sealed bids addressed to the City of Pflugerville, ATTN: Sabrina Schmidt, will be received until 2 P.M. on Thursday, December 17, 2015 at the City of Pflugerville City Hall, 100 East Main, Suite 100, Pflugerville, Texas 78660 at which time they will be publicly opened and read aloud in Suite 500. A non-mandatory pre-bid meeting for the project will be held at 2 P.M. on Tuesday, December 8, 2015 at the City of Pflugerville Public Works Office located at 15500 Sun Light Near Way #B, Pflugerville, Texas, 78660.

The right is reserved, as the interest of the City of Pflugerville may require, to reject any and all bids and to waive any informalities in bids received. The right is also reserved to eliminate a portion of the work or add additional work as required to keep the total contract amount within the funds budgeted. The City also has the right to award any parts or combination of parts of the project it deems necessary. 11-25, 12-2, 12-9/2015 #516264

**WATSON & TAYLOR SELF STORAGE NOTICE OF PUBLIC SALE**

WATSON & TAYLOR SELF STORAGE wishing to avail themselves of the provisions of Chapter 59 of the Texas Property Code, hereby gives the notice of public sale under said Act to Wit: this sale will be held on 12/14/15 beginning at 1:00 pm at the Watson & Taylor Self Storage located at: 11712 N Lamar Blvd, Austin, TX 78753. The property in the storage units at each location in the tenants' name is being sold "AS IS", "WHERE IS" for CASH to the highest bidder. Clean up deposit may be required. Watson & Taylor Mini Storage reserves the right to refuse any bid or to cancel any public sale advertised. Announcements made the day of the sale take precedence over and printed materials.

Perla Guerrero- furn, antiques, bgs  
Jason C. Stewart- house itms, furn, tools  
Alex Porter- house itms, clothes, tools  
Alma Villarreal- furn, clothes, bx

**WATSON & TAYLOR SELF STORAGE NOTICE OF PUBLIC SALE**

WATSON & TAYLOR SELF STORAGE wishing to avail themselves of the provisions of Chapter 59 of the Texas Property Code, hereby gives the notice of public sale under said Act to Wit: this sale will be held on 12/14/15 beginning at 2:00 pm at the Watson & Taylor Self Storage located at: 6330 Harold Ct, Austin, TX 78721. The property in the storage units at each location in the tenants' name is being sold "AS IS", "WHERE IS" for CASH to the highest bidder. Clean up deposit may be required. Watson & Taylor Mini Storage reserves the right to refuse any bid or to cancel any public sale advertised. Announcements made the day of the sale take precedence over and printed materials.

Darius Stidom- house itms, app, out dr furn  
Sarah Speck- house itms, bx  
Barbara Washington- house itms, bx  
Elizabeth Ogbu- house itms, furn, bx  
Barbara Washington- house itms, bx  
Carson Jones- house itms, elec, clothes  
Jeannette Clewis- furn, bx  
Chris Jeter- furn, spts equip  
Humbertina Benitez- house itms  
Kirmet Hyder- furn, bx  
Anthony Darryl Buntion- house itms, furn, bx, tools  
Cynthia M. Ali- house itms, furn, bx  
Diane A Armstrong- spt gds  
Ayanda Carmichael- bx  
Lori Rodriguez- house itms, furn, app, elec, bx  
Cassandra F Collins- clothes, bx, bgs  
Darryl W Davis- furn, elec, bx, scooter  
Wen'Quis R Johnson- clothes, bx, bgs  
Michael Jordan- spts equip  
John Keen- antiques  
11-25, 12-2/2015 #516527

Think of advertising space as

money-making potential.

(Hmmm...Get the picture?)

Log on or call:

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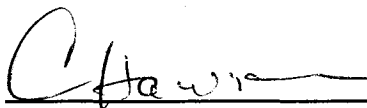


X  
THE STATE OF TEXAS X  
X  
X  
COUNTY OF TRAVIS X  
X

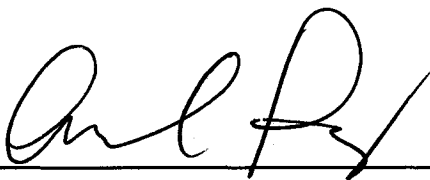
Before me, the undersigned authority, on this date personally appeared Charlotte Hawkins, who, having been by me duly sworn, upon her oath deposes and says;

That she is editor of TEXAS BOND REPORTER, an official publication of Municipal Advisory Council of Texas, and is authorized to make this affidavit.

The attached is a true and correct copy of NOTICE OF SALE - BRUSHY CREEK MUD, \$6,940,000 WW & SS REV NOTES SER 2016 was published in the TEXAS BOND REPORTER on the following date(s), to wit: November 27, 2015.

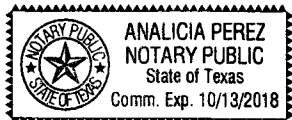
  
\_\_\_\_\_

Sworn to and subscribed before me this the 27th day of November A.D. 2015

  
\_\_\_\_\_

Notary Public in and for the  
State of Texas

My commission expires: 10-13-2018



NOTICE OF SALE  
BRUSHY CREEK MUNICIPAL UTILITY DISTRICT  
WATERWORKS AND SEWER SYSTEM REVENUE NOTE, SERIES 2016  
(A political subdivision of the State of Texas located  
in Williamson County, Texas)  
\$6,940,000\*

PRIVATE PLACEMENT OFFERING

Bids Due: Tuesday, December 8, 2015 at 12:00 p.m., C.S.T.  
Award of Sale: Thursday, December 10, 2015 at 6:00 p.m., C.S.T.

**Place and Time of Sale:** The Board of Directors of the District will receive sealed bids for the above described revenue note (the "Note") on Tuesday, December 8, 2015 at 12:00 p.m., C.S.T., at the office of Robert W. Baird & Co., attention Jan Bartholomew, phone number (713) 230-6121, Financial Advisor to the District. The Board of Directors of the District will consider awarding the sale of the Note on Thursday, December 10, 2015 at 6:00 p.m., C.S.T., at the designated meeting place inside the boundaries of the District, at Brushy Creek Municipal Utility District Offices, 16318 Great Oaks Drive, Round Rock, Texas 78681-5685. The Board will immediately take action to reject any and all bids or accept the bid that produces the lowest net effective interest rate for the Note. All bids must be submitted pursuant to the Private Placement Term Sheet and Bid Form attached thereto (the "Term Sheet"), which is available from the Financial Advisor upon written request.

**Address of the Bids/Bids Delivered in Person:** Sealed bids on the Bid Form as attached to the Term Sheet should be addressed to the Board of Directors of Brushy Creek Municipal Utility District, and if delivered in person, delivered to Jan Bartholomew, Robert W. Baird & Co. Incorporated, 1331 Lamar Street, Suite 1360, Houston, Texas 77010, by 12:00 p.m., C.S.T., on Tuesday, December 8, 2015.

**Purchase and Investment Letter:** The winning bidder must sign a Purchase and Investment Letter, where the winning bidder, among other things, must certify it is an "accredited investor" within the meaning of Section 2(a)(15) of the Securities Act of 1933, as amended (the "Act"), and a "qualified institutional buyer" as defined in Section (a)(1) of Rule 144A under the Act and must agree to certain restrictions on transfers of the Note as further described in the Purchase and Investment Letter.

**Information:** The District reserves the right to reject any and all bids and to waive any and all irregularities except time of filing. This notice does not constitute an offer to sell the Note, but is merely notice of sale of the Note as required by law. The District will use the proceeds from the sale of the Note to finance the engineering and construction of the expansion of the District's community center for additional recreational facilities and to pay costs of issuance related to the Note.

**Risk Factors:** The Note and the interest thereon will be payable solely from the net revenues of the District's water and wastewater system as further described in the Term Sheet. The District will not prepare and distribute an Official Statement or any other offering materials relating to the Note and makes no representations concerning the District's condition, financial or otherwise, or investment considerations relating to purchase of the Note. Each prospective purchaser is urged to make its own investigation of such matters, with which the District agrees to cooperate.

Information concerning the Note and the proposed sale thereof is available upon request from the Financial Advisor.

Board of Directors  
Brushy Creek Municipal Utility District

\*Preliminary, subject to change. The District reserves the right to modify the installment amounts to ensure level debt service upon receipt of the proposed interest rate.

LEGAL NOTICE

**CERTIFICATE FOR MASTER RESOLUTION**

**THE STATE OF TEXAS §**  
**COUNTY OF WILLIAMSON §**  
**BRUSHY CREEK MUNICIPAL UTILITY DISTRICT §**

We, the undersigned officers of the Board of Directors of the Brushy Creek Municipal Utility District (the "District"), hereby certify as follows:

The Board of Directors of the District convened in REGULAR MEETING ON THE 10th DAY OF DECEMBER, 2015, at the designated meeting place (the "Meeting"), and the roll was called of the duly constituted officers and members of the Board, to wit:

- Rebecca B. Tullos, President
- Russ Shermer, Vice President
- Kim Filiatrault, Secretary
- Shean R. Dalton, Treasurer
- Donna B. Parker – Assistant Secretary/Treasurer

and all of said persons were present, except the following absentees: none, thus constituting a quorum. Whereupon, among other business, the following was transacted at the Meeting: a written

**MASTER RESOLUTION ESTABLISHING THE  
BRUSHY CREEK MUNICIPAL UTILITY DISTRICT  
UTILITY SYSTEM REVENUE FINANCING PROGRAM**

was duly introduced for the consideration of the Board. It was then duly moved and seconded that the Resolution be passed; and, after due discussion, the motion, carrying with it the passage of the Resolution, prevailed and carried by the following vote:

AYES: 5

NOES: 0

A true, full and correct copy of the aforesaid Resolution passed at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that the Resolution has been duly recorded in the Board's minutes of the Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from the Board's minutes of the Meeting pertaining to the passage of the Resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the Board as indicated therein; that each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that the Resolution would be introduced and considered for passage at the Meeting, and each of the officers and members consented, in advance, to the holding of the Meeting for such purpose; that the Meeting was open to the public and public notice of the time, place and purpose of the Meeting

was given, all as required by Chapter 551, Government Code, as amended and Section 49.064, Texas Water Code, as amended.

**SIGNED AND SEALED** this December 10, 2015.

  
\_\_\_\_\_  
Secretary, Board of Directors

  
\_\_\_\_\_  
President, Board of Directors

(SEAL)

**MASTER RESOLUTION ESTABLISHING THE  
BRUSHY CREEK MUNICIPAL UTILITY DISTRICT  
UTILITY SYSTEM REVENUE FINANCING PROGRAM**

**Adopted December 10, 2015**

**MASTER RESOLUTION ESTABLISHING THE  
BRUSHY CREEK MUNICIPAL UTILITY DISTRICT  
UTILITY SYSTEM REVENUE FINANCING PROGRAM**

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**EXHIBIT A – Definitions**

**MASTER RESOLUTION ESTABLISHING THE  
BRUSHY CREEK MUNICIPAL UTILITY DISTRICT  
UTILITY SYSTEM REVENUE FINANCING PROGRAM**

**THE STATE OF TEXAS**

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**BRUSHY CREEK MUNICIPAL UTILITY DISTRICT**

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**WHEREAS**, in order to reduce costs, increase borrowing capacity and provide Brushy Creek Municipal Utility District (the "District") with greater financial flexibility, the District desires to establish a new utility system financing program (the "Utility System Revenue Financing Program" or the "Financing Program") pursuant to which the District may issue obligations, including bonds, notes and other public securities and execute credit agreements, secured by and payable from a pledge of and lien on all or part of the Security; and

**WHEREAS**, the Enabling Act, as hereinafter defined, authorizes the District to issue obligations secured by and payable from a pledge of and lien on all or part of the Security, as hereinafter defined, and which obligations may be issued in multiple series and issues from time to time for one or more purposes authorized by law including to: (i) any corporate purposes of the District; (ii) pay all or part of the costs of the purchase, acquisition and construction of the proposed works, improvements, facilities, land, plants, equipment, appliances, cost of purchasing and acquiring such property, contract rights, rights of use and interests in property, administration facilities and expenses incident thereto; (iii) recreational facilities; (iv) create debt service reserve accounts; (v) pay interest on obligations for the period authorized by State law; (vi) refund or cancel outstanding obligations; (vii) pay the District's costs of issuance and (viii) all other purposes now or hereafter authorized by law; and

**WHEREAS**, the Debt, as hereinafter defined, issued pursuant to this Master Resolution shall be secured by a lien upon the Net Revenues of the Utility System; and

**WHEREAS**, simultaneously with the adoption of this Master Resolution, the District is adopting the First Supplement authorizing the initial series of obligations to be issued pursuant to the Financing Program in an aggregate principal amount of \$6,940,000; and

**WHEREAS**, the terms used in this Master Resolution, including this preamble, and not otherwise defined shall have the meaning given in Exhibit "A" to this Master Resolution attached hereto and made a part hereof.

**NOW THEREFORE, BE IT RESOLVED BY THE BRUSHY CREEK MUNICIPAL UTILITY DISTRICT THAT:**

**Section 1. ESTABLISHMENT OF FINANCING PROGRAM AND ISSUANCE OF PARITY DEBT.** As authorized by the Enabling Act and other applicable provisions of State law, the Utility System Revenue Financing Program is hereby established for the purpose of providing a new financing structure for the issuance of Debt by the District secured by and payable from a pledge of and lien on all or part of the Security. This Master Resolution is intended to establish a



master financing program under which Parity Debt of the Financing Program can be incurred. Each issue or series of Parity Debt shall be issued pursuant to a Supplement and no Parity Debt shall be issued unless the District has complied with this Master Resolution.

Each Supplement shall provide for the authorization, issuance, sale, delivery, form, characteristics, provisions of payment and redemption, and security of each issue or series of Parity Debt and any other matters related to Parity Debt not inconsistent with this Master Resolution.

**Section 2. SECURITY AND PLEDGE.** (a) Pledge. Parity Debt shall be secured by and payable solely from a lien on and pledge of the following (collectively, the "Security"): (i) all Pledged Revenues; (ii) all amounts in the System Account and the Interest and Sinking Account; (iii) any additional account or subaccount that is subsequently established and so designated as being included within the Security pursuant to Section 3(f) hereof; (iv) all of the proceeds of the foregoing, including, without limitation, investments thereof; and (v) any applicable Credit Agreement to the extent set forth in such Credit Agreement. With respect to any applicable series of Parity Debt, the term "Security" shall also include all amounts in any reserve account or subaccount applicable to such series of Parity Debt pursuant to Section 3(e) hereof, including any reserve fund surety policy or other Credit Agreement entered into for the benefit of such account or subaccount. The District hereby assigns and pledges the Security to the payment of the Annual Debt Service Requirements on Parity Debt including the obligations due under and in connection with any Credit Agreement, to the extent set forth therein and in the related Supplement, and the Security is further pledged to the establishment and maintenance of any accounts or subaccounts which may be provided to secure the repayment of Parity Debt including the obligations due under and in connection with any Credit Agreement, to the extent set forth therein and in the related Supplement, in accordance with this Master Resolution and any Supplement.

(b) Credit Agreements. To the extent permitted by law, pursuant to Chapter 1371, Texas Government Code, as amended, and other applicable law, the District may execute and deliver one or more Credit Agreements (i) to additionally secure Parity Debt or an issue or series or part of any issue or series of Parity Debt or (ii) in connection with the authorization, issuance, sale, resale, security, exchange, payment, purchase, remarketing or redemption of Parity Debt or an issue or series or part of an issue or series of Parity Debt or interest on an issue or series or part of an issue or series of Parity Debt without regard to whether a Credit Agreement was contemplated, authorized or executed in relation to the initial issuance, sale or delivery of Parity Debt. Credit Agreements and the obligations thereunder may, pursuant to their terms, constitute: (i) Parity Debt secured by a pledge of the Security on parity with all Parity Debt, (ii) Subordinated Debt secured by a pledge of the Security subordinate to Parity Debt or (iii) partially on a parity with Parity Debt and partially as Subordinated Debt.

(c) Perfection. Chapter 1208, Texas Government Code, applies to the issuance of Parity Debt and the pledge of the Security granted by the District under this Section and in any applicable Supplement, and such pledge is therefore valid, effective, and perfected. If State law is amended at any time while Parity Debt is outstanding and unpaid such that the pledge of the Security granted by the District under this Section and in any applicable Supplement is to be subject to the filing

requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve for the owners of Parity Debt the perfection of the security interest in said pledge, the District agrees to take such measures as it determines are reasonable and necessary under State law to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

**Section 3. ACCOUNTS.** (a) Creation or Affirmation of Funds. The District hereby establishes and/or affirms the creation of the following funds or accounts:

- (i) the System Revenue Fund or Account (the "System Account");
- (ii) the Utility System Interest and Sinking Account (the "Interest and Sinking Account"); and
- (iii) the Utility System Bond Proceeds Account (the "Bond Proceeds Account").

(b) System Account. Subject to the provisions of Section 4 of this Master Resolution, moneys in the System Account may be used for any lawful purpose authorized pursuant to the Enabling Act and other State law.

(c) Interest and Sinking Account. Moneys in the Interest and Sinking Account shall be used to pay amounts due on or with respect to Parity Debt, including the principal of, premium, if any, and interest on Parity Debt as the same become due and payable (whether at Stated Maturity or upon prior redemption), and the District shall maintain such account as long as Parity Debt is Outstanding.

(d) Bond Proceeds Account. Proceeds from the issuance of Parity Debt shall be deposited from time to time upon the issuance of such Parity Debt as provided by the applicable Supplement into the Bond Proceeds Account, or any subaccount thereof created with respect to such Parity Debt. Such proceeds and the interest thereon shall remain in the Bond Proceeds Account or applicable subaccount thereof until expended to accomplish the purposes for which such Parity Debt was issued or until otherwise utilized as provided in the applicable Supplement. Amounts in the Bond Proceeds Account do not constitute Security.

(e) Reserve Accounts or Subaccounts. The District may establish a reserve account and/or any other account or subaccount pursuant to the provisions of the applicable Supplement for the purpose of paying or securing a particular issue or series of Parity Debt or any specific group of issues or series of Parity Debt and the amounts, once deposited into said accounts or subaccounts, shall no longer constitute Security for all Parity Debt but shall be held solely for the benefit of the owners of the particular issue or series or group of issues or series of Parity Debt for which such account or subaccount was established. Each such account or subaccount shall be designated in such manner as is necessary to identify the Parity Debt it secures and to distinguish such account or subaccount from any other accounts created for the benefit of any other Parity Debt. Any such reserve accounts or subaccounts shall be established in the Supplement related to such series or

issue of Parity Debt. The District may, in its discretion, provide in the applicable Supplement for a surety bond, insurance policy or other Credit Agreement, to the extent then authorized by State law, to be held for the benefit of such a reserve account or subaccount.

(f) Other Accounts. The District reserves the right to establish, in connection with the issuance of Parity Debt or for other purposes, one or more additional accounts or subaccounts for such other purposes as the District may determine from time to time. The District may, at its option, declare in the action establishing the account or subaccount that the amounts in such additional account or subaccount will be either included within or excluded from the Security.

**Section 4. FLOW OF FUNDS.** All Gross Revenues shall be deposited in the System Account immediately upon receipt by the District. All Gross Revenues are hereby and shall be appropriated, deposited, and transferred from the System Account to the other accounts and subaccounts to the extent required for the following uses and in the order of priority shown:

FIRST: to the payment of all necessary and reasonable Maintenance and Operating Expenses as defined herein or required by statute to be a first charge on and claim against the Gross Revenues, including any reserve amount based upon the budgeted amount of Maintenance and Operating Expenses for the current Fiscal Year as determined by the Chief Financial Officer, which amount shall be retained in the System Account;

SECOND: to the payment of amounts required to be deposited and credited to the Interest and Sinking Account to meet all financial obligations of the District relating to the Financing Program, including payments due on or with respect to the payment of Parity Debt as the same mature or come due;

THIRD: pro rata, on the basis that the Outstanding Principal Amount of each particular issue or series of Parity Debt secured by a reserve account bears to the aggregate Outstanding Principal Amount of all such issues or series of such Parity Debt secured by any reserve account, to the payment of the amounts required to be deposited and credited to each reserve account created and established to maintain a reserve in accordance with the provisions of any Supplement relating to the issuance of any Parity Debt;

FOURTH: any amounts to be deposited into any other fund, account or subaccount to the extent required pursuant to the provisions of any Supplement relating to the issuance of Parity Debt;

FIFTH: to the extent required by any resolution or other instrument adopted or approved by the District pursuant to which Subordinated Debt is issued, the amount necessary to meet all financial obligations on such Subordinated Debt and to accumulate or restore any required reserves to ensure payment of such principal,

premium, and interest shall be deposited to any account or subaccount created for such purpose; and

SIXTH: all remaining Pledged Revenues shall be retained in the System Account and may be used for any lawful purpose authorized pursuant to the Enabling Act and other State law.

**Section 5. RATE COVENANT.** For the benefit of the Holders of the Parity Debt and in addition to all provisions and covenants in the laws of the State and in this Master Resolution and any Supplement, the District hereby expressly stipulates and agrees, while any of the Parity Debt is Outstanding, to establish and maintain rates and charges for facilities and services afforded by the Utility System that are reasonably expected, on the basis of available information and experience and with due allowance for contingencies, to produce Gross Revenues in each Fiscal Year reasonably anticipated to be sufficient:

1. to pay Maintenance and Operating Expenses;
2. to produce Pledged Revenues in amounts sufficient to enable the District to make the deposits and credits, if any, from Pledged Revenues to the accounts and subaccounts required by this Master Resolution and any Supplement including to meet all financial obligation for Parity Debt and to fund or replenish any reserve account required by a Supplement, including the payment of any Reserve Account Obligation then due;
3. to produce Pledged Revenues, together with any other lawfully available funds (including the proceeds of Debt which the District expects will be utilized to pay all or part of the principal of and/or interest on any obligations) sufficient to meet all financial obligations for Subordinated Debt issued by the District; and
4. to pay any other Debt payable from the Pledged Revenues and/or secured by a lien on the Security.

Should the annual audit report reflect that the Security for the Fiscal Year covered thereby is less than necessary to meet the requirements of this Section, the Board of Directors will review the operations of the Utility System and the rates and charges for services provided, and the Board of Directors of the District will make the necessary adjustments or revisions, if any, in order that the Security for the succeeding year will be sufficient to satisfy the foregoing coverage requirements.

**Section 6. GENERAL REPRESENTATIONS AND COVENANTS.** The District further represents, covenants and agrees that while Parity Debt or interest thereon is Outstanding:

- (a) Payment of Parity Debt. The District will duly and punctually pay solely from the Security, (i) the Annual Debt Service Requirements on, and other payments with respect to, each and every Parity Debt on the dates and at the places, as such Parity Debt accrues or matures, or

becomes subject to mandatory redemption prior to maturity and such payments will be made in the manner provided in said Parity Debt and the Supplement governing its issuance, according to the true intent and meaning thereof and (ii) the fees and expenses related to Parity Debt, including the fees and expenses of the Paying Agent and any registrar, trustee, remarketing agent, tender agent, or credit provider.

(b) Performance. The District will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Master Resolution and in each Supplement, and in each and every Parity Debt or evidence thereof and will take such action as is reasonably possible to perform each and every duty with respect to the Parity Debt.

(c) Redemption. The District will duly cause to be called for redemption prior to maturity, and will cause to be redeemed prior to maturity, all Parity Debt which by its terms is mandatorily required to be redeemed prior to maturity, when and as required.

(d) Determination of Annual Debt Service Requirements. For all purposes of this Master Resolution, the judgment of the Chief Financial Officer shall be deemed final in the determination of the Annual Debt Service Requirements of the Financing Program.

(e) Lawful Authority. The District is lawfully authorized to pledge the Security herein pledged in the manner prescribed herein and has lawfully exercised such right.

(f) Preservation of Lien. Subject to the conditions set forth in subsection (g) of this Section and in Section 7 of this Master Resolution, the District (i) will not do or suffer any act or thing whereby the pledge of the Security might or could be impaired and (ii) will take all actions to the extent necessary to ensure that the District does not do or suffer any act or thing whereby the pledge of the Security might or could be impaired.

(g) No Additional Encumbrance. The District shall not incur additional Debt secured by the Security in any manner, except as permitted by this Master Resolution in connection with Parity Debt, unless said Debt is made junior and subordinate in all respects to the liens, pledges, covenants, and agreements of this Master Resolution and any Supplement. Any Debt incurred by the District without satisfying the conditions for the issuance of Parity Debt, as set forth in this Master Resolution, is hereby declared to be Subordinated Debt junior and subordinate in all respects to the liens, pledges, covenants, and agreements of this Master Resolution and any Supplement whether such status is noted or not.

(h) Investments and Security. Moneys in all accounts and subaccounts established pursuant to this Master Resolution and any Supplement will be held uninvested or invested and secured in the manner prescribed by State law for such funds and in accordance with the applicable Supplement and written policies adopted by the District. The investments of each account and subaccount shall be made under conditions that will timely provide money sufficient to satisfy the District's obligations hereunder and under any Supplement. Money in all accounts and subaccounts established pursuant to this Master Resolution and any Supplement may be combined

for investment purposes, as directed by the District. Such treatment does not constitute a commingling of the money in such accounts and subaccounts and the District shall keep or cause to be kept full and complete records indicating the money, investments and securities credited to each such account and subaccount. Any profits or losses from investments shall be credited or charged, respectively, on a pro rata basis among the accounts and other sources of money from which such investment was made.

(i) Records; Annual Audit. The District will keep proper books of record and account in which full, true, and correct entries will be made of all dealings, activities, and transactions relating to the Utility System. Each year while any Parity Debt is Outstanding, the District covenants that as soon as practicable beginning with the end of the first Fiscal Year in which Parity Debt is issued, it will prepare or cause to be prepared a financial report of the Utility System for such Fiscal Year in accordance with generally accepted accounting principles, certified by a Certified Public Accountant. The District shall promptly furnish such audited financial report to the municipal bond rating agencies then maintaining a rating on Parity Debt and to any owner of Parity Debt who shall request the same, and shall file or make available such audited financial report as required by each Supplement. In addition, a copy of each such audited financial report shall be retained on file in the District's finance office and open to the inspection of the owners of Parity Debt, and their respective agents and representatives, at all reasonable times during regular business hours, for at least 365 days following the preparation thereof.

(j) Inspection of Records. The District will permit any owner or owners of twenty-five percent (25%) or more of the then Outstanding Principal Amount of Parity Debt at all reasonable times to inspect all records, accounts, and data of the District relating to the Utility System and the Financing Program, except such records as federal or State law may designate as privileged and exempt from disclosure.

(k) Title. The District has or will obtain lawful title to the lands, buildings, structures and facilities constituting the Utility System, that it warrants that it will defend the title to all the aforesaid lands, buildings, structures and facilities, and every part thereof, for the benefit of any Owner of the Parity Debt, against the claims and demands of all persons whomsoever, that it is lawfully qualified to pledge the Pledged Revenues to the payment of the Parity Debt in the manner prescribed herein, and has lawfully exercised such rights.

(l) Liens. The District will from time to time and before the same become delinquent pay and discharge all taxes, assessments and governmental charges, if any, which shall be lawfully imposed upon it, or the Utility System; it will pay all lawful claims for rents, royalties, labor, materials and supplies which if unpaid might by law become a lien or charge thereon, the lien of which would be prior to or interfere with the liens hereof, so that the priority of the liens granted hereunder shall be fully preserved in the manner provided herein, and it will not create or suffer to be created any mechanic's, laborer's, materialman's or other lien or charge which might or could be prior to the liens hereof, or do or suffer any matter or thing whereby the liens hereof might or could be impaired; provided, however, that no such tax, assessment or charge, and that no such claims which might be used as the basis of a mechanic's, laborer's, materialman's or other lien or

charge, shall be required to be paid so long as the validity of the same shall be contested in good faith by the District.

(m) Operation of Utility System. The District will, while the Parity Debt is Outstanding and unpaid, continuously and efficiently operate the Utility System, and shall maintain the Utility System in good condition, repair and working order, all at reasonable cost. Except as may be authorized by law, the District shall not provide any free service from the Utility System.

(n) Sale or Disposal of Property. While the Parity Debt is Outstanding and unpaid, the District will not sell, convey, mortgage, encumber, lease or in any manner transfer title to, or otherwise dispose of the Utility System, or any significant or substantial part thereof; provided that whenever the District deems it necessary to dispose of any property, machinery, fixtures or equipment, it may sell or otherwise dispose of such property, machinery, fixtures or equipment when it has made arrangements to replace the same or provide substitutes therefor, unless it is determined by an Authorized Representative that no such replacement or substitute is necessary; and, provided further, that the District retains the right to sell, convey, mortgage, encumber, lease or otherwise dispose of any significant or substantial part of the Utility System if (i) the Authorized Representative delivers a certificate to the Board of Directors to the effect that, following such action by the District, the Utility System is expected to produce Gross Revenues in amounts sufficient in each Fiscal Year while the Parity Debt is to be Outstanding to comply with the obligations of the District contained in this Master Resolution, (ii) the Board of Directors makes a finding and determination to the same effect as the certificate of the Authorized Representative set forth in (i) above and (iii) for insured Parity Debt, the Net Revenues for the Fiscal Year prior to such sell, conveyance, mortgage, encumbrance, lease or disposal of any significant or substantial part of the Utility System are at least equal to 1.25 times the average Annual Debt Service Requirements or for uninsured Parity Debt, each Rating Agency then maintaining a rating on such Parity Debt delivers a letter to the District to the effect that such sale, conveyance, mortgage, encumbrance, lease or other disposition of a significant or substantial part of the Utility System will not cause the Rating Agency to withdraw or lower the rating then in effect. Proceeds from any sale hereunder not used to replace or provide for substitution of such property sold, shall be used for improvements to the Utility System or to purchase or redeem Parity Debt.

(o) Insurance. (1) The District shall cause to be insured such parts of the Utility System as would usually be insured by municipal corporations operating like properties, with a responsible insurance company or companies, against risks, accidents or casualties against which and to the extent insurance is usually carried by municipal corporations operating like properties, including, to the extent reasonably obtainable at reasonable cost, fire and extended coverage insurance, insurance against damage by floods, and use and occupancy insurance. Public liability and property damage insurance shall also be carried unless the Attorney of the District gives a written opinion to the effect that the District is not liable for claims which would be protected by such insurance. At any time while any contractor engaged in construction work shall be fully responsible therefor, the District shall not be required to carry insurance on the work being constructed if the contractor is required to carry appropriate insurance. All such policies shall be open to the inspection of the Owners and their representatives at all reasonable times. Upon the

happening of any loss or damage covered by insurance from one or more of said causes, the District shall make due proof of loss and shall do all things necessary or desirable to cause the insuring companies to make payment in full directly to the District. The proceeds of insurance covering such property are hereby pledged as security for the Parity Debt and, together with any other funds necessary and available for such purpose, shall be used forthwith by the District for repairing the property damaged or replacing the property destroyed; provided, however, that if said insurance proceeds and other funds are insufficient for such purpose, then said insurance proceeds pertaining to the Utility System shall be used promptly as follows:

(i) for the redemption prior to maturity of the Parity Debt, ratably in the proportion that the Outstanding principal of each series of Parity Debt bears to the total Outstanding principal of all Parity Debt, provided that if on any such occasion the principal of any such series is not subject to redemption, it shall not be regarded as Outstanding in making the foregoing computation; or

(ii) if none of the Outstanding Parity Debt is subject to redemption, then for the purchase on the open market and retirement of said Parity Debt in the same proportion as prescribed in the foregoing clause (i), to the extent practicable; provided that the purchase price for any Parity Debt shall not exceed the redemption price of such Parity Debt on the first date upon which it becomes subject to redemption; or

(iii) to the extent that the foregoing clauses (i) and (ii) cannot be complied with at the time, the insurance proceeds, or the remainder thereof, shall be deposited in a special and separate trust fund, at an official depository of the District, to be designated the Insurance Account. The Insurance Account shall be held until such time as the foregoing clauses (i) and/or (ii) can be complied with, or until other funds become available which, together with the Insurance Account, will be sufficient to make the repairs or replacements originally required, whichever of said events occurs first.

(2) The foregoing provisions of (1) above notwithstanding, the District shall have authority to enter into a self insurance program or coinsurance or similar plans where risk of loss is shared in whole or in part by the District.

(3) The payment of premiums for all insurance policies required under the provisions hereof and the costs associated with the maintenance of any self-insurance program shall be considered Maintenance and Operating Expenses. Nothing in this Master Resolution shall be construed as requiring the District to expend any funds which are derived from sources other than the operation of the Utility System, but nothing herein shall be construed as preventing the District from doing so.

(p) Governmental Agencies. The District will comply with all of the terms and conditions of any and all franchises, permits and authorizations applicable to or necessary with respect to the Utility System, and which have been obtained from any governmental agency; and the District has or will obtain and keep in full force and effect all franchises, permits, authorization and other



requirements applicable to or necessary with respect to the acquisition, construction, equipment, operation and maintenance of the Utility System.

(q) Disaggregation of Utility System. The District retains the right to disaggregate the Utility System into one or more independent resulting systems if (i) the Authorized Representative delivers a certificate to the Board of Directors to the effect that, following such action by the District, the remaining System is expected to produce Gross Revenues in amounts sufficient in each Fiscal Year while any of the Parity Debt is to be Outstanding to comply with the obligations of the District contained in this Master Resolution and any Supplement; (ii) the Board of Directors makes a finding and determination to the same effect as the certificate of the Authorized Representative set forth in (i) above and (iii) for Parity Debt the Net Revenues for the Fiscal Year after disaggregation will be equal to at least 1.25 times the average Annual Debt Service Requirements and each Rating Agency then maintaining a rating, if any, on any Parity Debt delivers a letter to the District to the effect that such disaggregation will not cause the Rating Agency to withdraw or lower any rating then in effect on such Parity Debt.

#### **Section 7. ISSUANCE OF PARITY DEBT.**

(a) General. The District reserves and shall have the right and power to issue or incur Parity Debt for any purpose authorized by State law, including the refunding of Parity Debt, Subordinated Debt, or other obligations of the District issued to finance the costs of a project authorized to be financed under the Financing Program, pursuant to the provisions of this Master Resolution and Supplements to be hereafter authorized. The District hereby covenants and agrees to comply with all constitutional and statutory requirements of State law and, to the extent applicable, federal law governing the issuance of Parity Debt.

(b) Parity Debt. Provided that the District is in compliance with the requirements of any then applicable provisions of State law, the District may from time to time incur, assume, guarantee, or otherwise become liable in respect of Parity Debt if, in the applicable Supplement, the District finds that, upon the issuance of such Parity Debt, the Security will be sufficient to meet the financial obligations relating to the Financing Program, including Security in amounts sufficient to satisfy the Annual Debt Service Requirements of the Financing Program. In addition, the District shall not issue or incur such Parity Debt unless (i) an Authorized Representative shall deliver to the District an Officer's Certificate stating that, to the best of his or her knowledge, the District, has not failed to comply with the covenants contained in this Master Resolution and any Supplement, to any material extent, and are not in default, to any material extent, in the performance and observance of any of the terms, provisions, and conditions hereof, thereof or under any Credit Agreement that constitutes Parity Debt and (ii) the Chief Financial Officer signs and delivers to the District a written certificate to the effect that, during either the next preceding Fiscal Year, or any twelve consecutive calendar month period ending not more than ninety days prior to the date of the then proposed Parity Debt, the Net Earnings were, in the opinion thereof, at least equal to the Annual Debt Service Requirements (computed on a Fiscal Year basis) of the Parity Debt to be outstanding after the issuance of the then proposed Parity Debt.

In making a determination of Net Earnings for any of the purposes described in this Section, the Chief Financial Officer may take into consideration a change in the rates and charges for services and facilities afforded by the Utility System that became effective at least 60 days prior to the last day of the period for which Net Earnings are determined and, for purposes of satisfying the Net Earnings tests described above, make a pro forma determination of the Net Earnings of the Utility System for the period of time covered by said Chief Financial Officer's certification or opinion based on such change in rates and charges being in effect for the entire period covered by the Chief Financial Officer's certificate or opinion.

As used in this Section, the term "Net Earnings" shall mean the Gross Revenues of the Utility System after deducting the Maintenance and Operating Expenses of the Utility System but not expenditures which, under standard accounting practice, should be charged to capital expenditures.

(c) Credit Agreements. To the extent permitted by law, the District may execute and deliver one or more Credit Agreements (i) upon the delivery to the District of the Chief Financial Officer's Certificate to the effect that the Credit Agreement is in the best interest of the District and (ii) compliance with the requirements of subsection (b) or (c) of this section, as the case may be, if the Credit Agreement is to constitute Parity Debt. Each Credit Agreement shall be approved by the District, to the extent required by law, either pursuant to a Supplement or by other action. Credit Agreements and the obligations thereunder may, pursuant to their terms, constitute (i) Parity Debt secured by a pledge of the Security on parity with other Parity Debt, (ii) Subordinated Debt secured by a pledge of the Security subordinate to Parity Debt, or (iii) partially Parity Debt and partially Subordinated Debt.

(d) Non-Recourse Debt and Subordinated Debt. Non-Recourse Debt and Subordinated Debt may be incurred by the District in accordance with State law.

**Section 8. WAIVER OF CERTAIN COVENANTS.** The District may omit in any particular instance to comply with any covenant or condition set forth in Sections 6 and 7 hereof if before or after the time for such compliance the Holders of the same percentage in Outstanding Principal Amount, the consent of which would be required to amend the applicable provisions to permit such noncompliance, shall either waive such compliance in the particular instance or generally waive compliance with such covenant or condition, but no such waiver shall extend to or affect such covenant or condition except to the extent so expressly waived and, until such waiver shall become effective, the obligations of the District and the duties of the District in respect of any such covenant or condition shall remain in full force and effect. For the purpose of this Section, the District may determine in each Supplement the treatment of who may act as an "owner", "Holder", or "Bondholder" and other matters relating to such Parity Debt, including designating any municipal bond insurance company providing an insurance policy on the payment of Parity Debt or the provider under a Credit Agreement as the sole owner of such Parity Debt.

**Section 9. INDIVIDUALS NOT LIABLE.** All covenants, stipulations, obligations, and agreements of the District contained in this Master Resolution and any Supplement shall be

deemed to be covenants, stipulations, obligations, and agreements of the Financing Program, the Utility System and the District to the full extent authorized or permitted by State law. No covenant, stipulation, obligation, or agreement herein contained shall be deemed to be a covenant, stipulation, obligation, or agreement of any member of the Board of Directors or agent or employee of the District in his or her individual capacity and neither the members of the Board of Directors, nor any officer, employee, or agent of the District shall be liable personally on Parity Debt when issued, or be subject to any personal liability or accountability by reason of the issuance thereof.

**Section 10. SPECIAL OBLIGATIONS; ABSOLUTE OBLIGATION TO PAY PARITY DEBT.** All Parity Debt and the interest thereon shall constitute special obligations of the District payable from the Security and the owners of Parity Debt shall never have the right to demand payment out of funds raised or to be raised by taxation, or from any source other than those specified in this Master Resolution or any Supplement. The obligation of the District to pay or cause to be paid the amounts payable under this Master Resolution and each Supplement out of the Security shall be absolute, irrevocable, complete, and unconditional, and the amount, manner, and time of payment of such amounts shall not be decreased, abated, rebated, setoff, reduced, abrogated, waived, diminished, or otherwise modified in any manner or to any extent whatsoever, regardless of any right of setoff, recoupment, or counterclaim that the District might otherwise have against any owner or any other party and regardless of any contingency, force majeure, event, or cause whatsoever and notwithstanding any circumstance or occurrence that may arise or take place before, during, or after the issuance of Parity Debt while any Parity Debt is outstanding.

**Section 11. DEFAULTS AND REMEDIES.** (a) Events of Default. Each of the following occurrences or events for the purpose of this Master Resolution is hereby declared to be an Event of Default:

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

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

(b) Remedies for Default.

(i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the District, or any official, officer or employee of the District in their official capacity, for the purpose of protecting and enforcing the rights of the Registered Owners under this Master Resolution, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement

contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies.

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

(c) Remedies Not Exclusive.

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

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

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

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

**Section 12. DEFEASANCE OF PARITY DEBT.** Each Supplement authorizing Parity Debt may provide by its respective terms the circumstances and conditions under which such Parity Debt may be considered Defeased Debt.

**Section 13. AMENDMENT OF MASTER RESOLUTION.** (a) Amendment Without Consent. This Master Resolution and the rights and obligations of the District and of the owners of the Outstanding Parity Debt may be modified or amended at any time without notice to or the consent of any owner of the Outstanding Parity Debt, solely for any one or more of the following purposes:

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

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

(iii) To supplement the Security for the Outstanding Parity Debt in accordance with the State law;

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

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

(vi) To make any changes or amendments requested by any bond rating agency then rating or requested to rate Parity Debt, as a condition to the issuance or maintenance of a rating, which changes or amendments do not, in the judgment of the District, materially adversely affect the interests of the owners of the Outstanding Parity Debt.

(b) Amendments With Consent. Subject to the provisions of Section 13(g) of this Master Resolution, the owners of Outstanding Parity Debt aggregating a majority in Outstanding Principal Amount shall have the right from time to time to approve any amendment, other than amendments described in subsection (a) of this Section, to this Master Resolution which may be deemed necessary or desirable by the District; provided, however, that nothing herein contained shall permit or be construed to permit, without the approval of the owners of all of the Outstanding Parity Debt (unless such amendment shall be determined by the District to affect only the owners of certain Parity Debt, in which case such amendment shall not be made without the approval of the owners so affected), the amendment of the terms and conditions in this Master Resolution so as to:

- (i) Grant to the owners of any Outstanding Parity Debt a priority over the owners of any other Outstanding Parity Debt; or
- (ii) Materially adversely affect the rights of the owners of less than all Parity Debt then Outstanding; or
- (iii) Change the minimum percentage of the Outstanding Principal Amount necessary for consent to such amendment; or
- (iv) Make any change in the maturity of any Outstanding Parity Debt; or

- (v) Reduce the rate of interest borne by any Outstanding Parity Debt; or
- (vi) Reduce the amount of the principal payable on any Outstanding Parity Debt; or
- (vii) Modify the terms of payment of the amounts required to meet any financial obligations of the District relating to the Financing Program, including payments due on or with respect to the payment of any Outstanding Parity Debt, or impose any conditions with respect to such; or
- (viii) Amend this subsection (b) of this Section.

(c) Notice. If at any time the District shall desire to amend this Master Resolution pursuant to subsection (b) of this Section, the District shall cause notice of the proposed amendment to be published in a financial newspaper or journal of general circulation in the City of New York, New York (including, but not limited to, The Bond Buyer or The Wall Street Journal) or in the State (including, but not limited to, The Texas Bond Reporter), once during each calendar week for at least two successive calendar weeks or disseminated by electronic means customarily used to convey notices of redemption. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of each Registrar for any Parity Debt for inspection by all owners of Parity Debt. Such publication is not required, however, if the District gives or causes to be given such notice in writing, by certified mail, to each owner of Parity Debt. A copy of such notice shall be provided in writing to each national rating agency maintaining a rating on any Parity Debt.

(d) Receipt of Consents. With respect to any amendment undertaken pursuant to subsection (b) above, whenever at any time the District shall receive an instrument or instruments executed by all of the owners or the owners of a majority in Outstanding Principal Amount, as appropriate, which instrument or instruments shall refer to the proposed amendment described in said notice and which specifically consent to and approve such amendment in substantially the form of the copy thereof on file as aforesaid, the District may adopt the amendatory resolution in substantially the same form.

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

(f) Consent Irrevocable. Any consent given by any owner of Parity Debt pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the first publication or other service of the notice provided for in this Section or the date of such consent, whichever is later, and shall be conclusive and binding upon all future owners of the same Parity Debt during such period. Such consent may be revoked at any time after the applicable

period of time that a consent is irrevocable by the owner who gave such consent, or by a successor in title, by filing notice thereof with the Registrar for such Parity Debt and the District, but such revocation shall not be effective if the owners of the requisite amount of the Outstanding Principal Amount, prior to the attempted revocation, consented to and approved the amendment. Notwithstanding the foregoing, any consent given by an owner at the time of and in connection with the initial sale or incurrence of an issue or series Parity Debt by the District shall be irrevocable.

(g) Ownership. For the purpose of this Section, the District may determine in each Supplement the treatment of who may act as an "owner", "Holder", or "Bondholder" and other matters relating to all Parity Debt, including designating any municipal bond insurance company providing an insurance policy on the payment of Parity Debt or the provider under a Credit Agreement as the sole owner of such Parity Debt.

(h) Amendments of Supplements. Each Supplement shall contain provisions governing the ability of the District to amend such Supplement; provided, however, that no amendment may be made to any Supplement for the purpose of granting to the owners of Outstanding Parity Debt under such Supplement a priority over the owners of any other Outstanding Parity Debt.

**Section 14. PARTIAL INVALIDITY.** If any one or more of the covenants or agreements or portions thereof provided in this Master Resolution on the part of the District should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreements or portions thereof provided in this Master Resolution and the invalidity thereof shall in no way affect the validity of the other provisions of this Master Resolution, but the Holders shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

**Section 15. ISSUANCE OF SPECIAL PROJECT OBLIGATIONS.** Nothing in this Master Resolution shall be construed to deny the District the right and it shall retain, and hereby reserves unto itself, the right to issue Special Project obligations secured by liens on and pledges of revenues and proceeds derived from Special Projects.

**Section 16. FURTHER PROCEDURES.** Each Authorized Representative and the other officers, employees, and agents of the District, shall be and they are hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the District all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the intent, the terms, and the provisions of this Master Resolution, including with respect to the initial issuance of Parity Debt, approving any technical changes or corrections to this Master Resolution necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated by this Master Resolution, (ii) obtain a rating from any of the national bond rating agencies or satisfy requirements of a

municipal bond insurer insuring such Parity Debt or a provider under a Credit Agreement related to such Parity Debt, or (iii) obtain the approval of such Parity Debt by the State's Attorney General's Office.

**Section 17. RULES OF INTERPRETATION.** For purposes of this Master Resolution, except as otherwise expressly provided or the context otherwise requires:

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

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

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

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

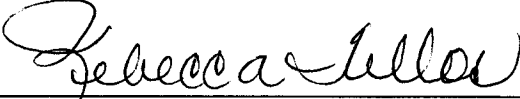
(e) Any terms defined elsewhere in this Master Resolution have the meanings attributed to them where defined.

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

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




**PASSED, APPROVED AND EFFECTIVE** this 10th day of December, 2015.



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President  
Brushy Creek Municipal Utility District

**ATTEST:**



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Secretary  
Brushy Creek Municipal Utility District

## **EXHIBIT "A"**

### **DEFINITIONS**

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

"Annual Debt Service Requirements" means, for any Fiscal Year, (i) the principal of, premium, if any, and interest on all Parity Debt coming due at Maturity or Stated Maturity (or that could come due on demand of the owner thereof other than by acceleration or other demand conditioned upon default by the District on such Parity Debt, or be payable in respect of any required purchase of such Parity Debt by the District) plus (ii) all payments required to be made by the District under each Credit Agreement constituting Parity Debt (net of any credits as provided in (7) below) in such Fiscal Year, and minus (iii) all amounts on deposit to the credit of the Interest and Sinking Account from original proceeds from the sale of Parity Debt or from any other lawfully available source (other than moneys that would constitute Pledged Revenues in the subject annual period) and, for such purposes, any one or more of the following rules shall apply at the election of the District; provided, however, that this definition shall never be applied in a manner which results in Annual Debt Service Requirements for any Fiscal Year being an amount that is less than the aggregate amount actually required to be paid in such Fiscal Year with respect to Outstanding Parity Debt:

(1) Committed Take Out. If the District has entered into a Credit Agreement constituting Parity Debt and constituting a binding commitment within normal commercial practice, from any bank, savings and loan association, insurance company, or similar institution to discharge any of its Funded Debt at its Stated Maturity (or, if due on demand, at any date on which demand may be made) or to purchase any of its Funded Debt at any date on which such debt is subject to required purchase, all pursuant to arrangements whereby the District's obligation to repay the amounts advanced for such discharge or purchase constitutes Funded Debt, then the portion of the Funded Debt committed to be discharged or purchased shall be excluded from such calculation and the principal of and interest on the Funded Debt incurred for such discharge or purchase that would be due in the Fiscal Year for which the calculation is being made, if incurred at the Stated Maturity or purchase date of the Funded Debt to be discharged or purchased, shall be added to such calculation, and the remaining provisions of this definition shall be applied to such added Funded Debt;

(2) Balloon Debt. If the principal, including the accretion of interest resulting from original issue discount or compounding of interest (collectively, "Principal"), of any series or issue of Funded Debt due (or payable in respect of any required purchase of such Funded Debt by the District) in any Fiscal Year either is equal to at least 25% of the total Principal of such Funded Debt or exceeds by more than 50% the greatest amount of Principal of such series or issue of Funded Debt due in any preceding or succeeding Fiscal Year (such Principal due in such Fiscal Year for such series or issue of Funded Debt being referred to herein as "Balloon Debt"), the amount of Principal of such Balloon Debt taken into account

during any Fiscal Year shall be equal to the debt service calculated using the Principal of such Balloon Debt amortized over the Term of Issue on a level debt service basis at an assumed interest rate equal to the rate borne by such Balloon Debt on the date of calculation;

(3) Consent Sinking Fund. In the case of Balloon Debt (as defined in clause (2) above), if an Authorized Representative shall deliver to the District an Officer's Certificate providing for the retirement of (and the instrument creating such Balloon Debt shall permit the retirement of), or for the accumulation of a sinking fund for (and the instrument creating such Balloon Debt shall permit the accumulation of a sinking fund for), such Balloon Debt according to a fixed schedule stated in such Officer's Certificate ending on or before the Fiscal Year in which such principal (and premium, if any) is due, then the principal of (and, in the case of retirement, or to the extent provided for by the sinking fund accumulation, the premium, if any, and interest and other payments due on) such Balloon Debt shall be computed as if the same were due in accordance with such schedule, provided that this clause (3) shall apply only to Balloon Debt for which the installments previously scheduled have been paid or deposited to the sinking fund established with respect to such debt on or before the times required by such schedule; and provided further that this clause (3) shall not apply where the District has elected to apply the rule set forth in clause (2) above;

(4) Prepaid Debt. Principal of, premium, if any, and interest on Parity Debt, or portions thereof, shall not be included in the computation of the Annual Debt Service Requirements for any Fiscal Year for which such principal, premium, if any, or interest are payable from funds on deposit or set aside in trust for the payment thereof at the time of such calculations (including, without limitation, capitalized interest and accrued interest so deposited or set aside in trust) with a financial institution acting as fiduciary with respect to the payment of such Parity Debt;

(5) Variable Rate. As to any Parity Debt that bears interest at a variable interest rate which cannot be ascertained at the time of calculation of the Annual Debt Service Requirement, at the election of the District, the interest rate for such Parity Debt shall be determined to be either (i) an interest rate equal to the average rate borne by such Parity Debt (or by comparable debt in the event that such Parity Debt has not been outstanding during the preceding 24 months) for any 24 month period ending within 30 days prior to the date of calculation, (ii) if the Parity Debt bears interest at tax-exempt rates, an interest rate equal to the 24 month average of the Bond Market Association Bond Index (as most recently published in The Bond Buyer), unless such index is no longer published in The Bond Buyer, in which case the index to be used in its place shall be that index which the District determines most closely replicates such index as set forth in a certificate of an Authorized Representative, (iii) if the Parity Debt bears interest at taxable rates, an interest rate equal to the rate of the 30 day London Interbank Offered Rate, (iv) that interest rate which, in the judgment of the Chief Financial Officer, based, to the extent possible, upon an accepted market index which corresponds with the provisions of the subject Parity Debt, is the average rate anticipated to be in effect with respect to such Parity Debt or (v) that interest rate which, in the judgment of the Chief Financial Officer, based upon the interest

rate methodology in the applicable Credit Agreement if calculating payments under a Credit Agreement in accordance with paragraph 7 of this definition, is the average rate anticipated to be in effect;

(6) Short-Term Obligations. Notwithstanding anything in the foregoing to the contrary, with respect to any Parity Debt issued as Short-Term Obligations, the debt service on such Parity Debt shall be calculated assuming that such Parity Debt will be refunded and refinanced to mature over a 20-year period with level principal requirements and bearing interest at then current market rates; provided, however, that to the extent permitted by law, if in the judgment of the Chief Financial Officer, as set forth in an Officer's Certificate delivered to the District, the result of the foregoing calculation is inconsistent with the reasonable expectations of the District, the interest on such Parity Debt shall be calculated in the manner provided in clause (5) of this definition and the maturity schedule shall be calculated in the manner provided in clause (2) of this definition; and

(7) Credit Agreement Payments. If the District has entered into a Credit Agreement in connection with an issue of Parity Debt, payments due under any such Credit Agreement (other than payments for fees and expenses) from either the District or the provider of a Credit Agreement shall be included in such calculation, except to the extent that the payments are already taken into account under clauses (1) through (6) above and any payments otherwise included under clauses (1) through (6) above which are to be replaced by payments under such a Credit Agreement, from either the District or the provider under a Credit Agreement, shall be excluded from such calculation.

"Authorized Representative" means the General Manager or such other individuals so designated by the District to perform the duties of an Authorized Representative under this Master Resolution.

"Bond Proceeds Account" has the meaning assigned to that term in Section 3(d) hereof.

"Certified Public Accountant" means a certified public accountant or firm or corporation of certified public accountants, selected by the District, which in the case of an individual is not a member of the Board of Directors of the District or an employee of the District, and in the case of a firm or corporation does not have a partner, director, officer, or employee who is a member of the District or a director, officer, or employee of the District.

"Chief Financial Officer" means the General Manager of the District or such other officer or employee of the District or such other individual so designated by the District to perform the duties of Chief Financial Officer under this Master Resolution.

"Code" means the Internal Revenue Code of 1986, as amended, and the rulings, regulations, and procedures (including temporary, proposed, and final regulations and procedures) promulgated thereunder.

"Credit Agreement" means, collectively, a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitments to purchase Debt, purchase or sale agreements, interest rate swap, cap and/or floor agreement or commitment, or other contract or agreement authorized, recognized, and approved by the District as a Credit Agreement in connection with the authorization, issuance, sale, resale, security, exchange, payment, purchase, remarketing, or redemption of Debt, the interest on Debt, or both.

"Debt" means all indebtedness of the District payable from all or part of the Security that is also:

(1) indebtedness incurred or assumed by the District for borrowed money (including all obligations arising under Credit Agreements) and all other financial obligations of the District that, in accordance with generally accepted accounting principles, are shown on the liability side of a balance sheet;

(2) all other indebtedness (other than indebtedness otherwise treated as Debt hereunder) for borrowed money or for the acquisition, construction, or improvement of property or capitalized lease obligations that is guaranteed, directly or indirectly, in any manner by the District, or that is in effect guaranteed, directly or indirectly, by the District through an agreement, contingent or otherwise, to purchase any such indebtedness or to advance or supply funds for the payment or purchase of any such indebtedness or to purchase property or services primarily for the purpose of enabling the debtor or seller to make payment of such indebtedness, or to assure the owner of the indebtedness against loss, or to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether or not such property is delivered or such services are rendered), or otherwise; and

(3) all indebtedness secured by any mortgage, lien, charge, encumbrance, pledge, or other security interest upon property owned by the District whether or not the District has assumed or become liable for the payment thereof.

For the purpose of determining the "Debt" of the District, only outstanding Debt shall be included. No item shall be considered Debt unless such item constitutes indebtedness under generally accepted accounting principles applied on a basis consistent with the financial statements of the District in prior Fiscal Years.

"Defeased Debt" means any Parity Debt and the interest thereon deemed to be paid, retired, and no longer Outstanding pursuant to the provisions of the applicable Supplement authorizing such Parity Debt; and thus, no longer secured by, payable from, or entitled to the benefits of the Security.

"Enabling Act" means the statutory authority cited in each Supplement approved in connection with the issuance of a particular series of Parity Debt.

"Financing Program" means the "Brushy Creek Municipal Utility District Utility System Revenue Financing Program".

"Fiscal Year" means the twelve-month accounting period used by the District in connection with the operation of the Utility System, currently ending on September 30 of each year, which may be any twelve consecutive month period established by the District, but in no event may the Fiscal Year be changed more than one time in any three calendar year period.

"Funded Debt" means all Parity Debt created, assumed, or guaranteed by the District that matures by its terms (in the absence of the exercise of any earlier right of demand), or is renewable at the option of the District to a date, more than one year after the original creation, assumption, or guarantee of such Debt by the District.

"Gross Revenues" and "Gross Revenues of the District's Utility System" mean all revenues, income and receipts of every nature derived or received by the District from the operation and ownership of the Utility System including the interest income from investment or deposit of money in any account or subaccount created by this Master Resolution or maintained by the District in connection with the Utility System (Except any account or subaccount not pledged as Security under this Master Resolution or any Supplement) and any other revenues hereafter pledged to the payment of all Parity Debt. Any interest income related to any reserve account shall operate as provided in the applicable Supplement.

"Holder" or "Bondholder" or "owner" means the (i) registered owner of any Parity Debt registered as to ownership, (ii) holder of any Parity Debt payable to bearer or (iii) obligee (other than the District) pursuant to any Credit Agreement.

"Interest and Sinking Account" has the meaning assigned to that term in Section 3(c) hereof.

"Master Resolution" means this "Master Resolution Establishing the Brushy Creek Municipal Utility District Utility System Revenue Financing Program" as may be supplemented or amended from time to time as authorized by the District and this Master Resolution.

"Maturity" when used with respect to any Debt means the date on which the principal of such Debt or any installment thereof becomes due and payable as therein provided, whether at the Stated Maturity thereof or by call for redemption, or otherwise.

"Maintenance and Operating Expenses" means the reasonable and necessary expenses of operation and maintenance of the Utility System as required by State law including all salaries, labor, materials, repairs and extensions necessary to render efficient service (but only such repairs and extensions as, in the judgment of the Chief Financial Officer, are necessary to keep the Utility System in operation and render adequate service to the District and the inhabitants thereof, or such as might be necessary to meet some physical accident or conditions which would otherwise impair the Parity Debt), and all payments under contracts now or hereafter defined as operating expenses by State law. Depreciation shall never be considered as a Maintenance and Operating Expense.

"Net Revenues" and "Net Revenues of the District's Utility System" mean all Gross Revenues remaining after deducting the Maintenance and Operating Expenses.

"Non-Recourse Debt" means any debt secured by a lien (other than a lien on the Security), liability for which is effectively limited to the property subject to such lien with no recourse, directly or indirectly, to the Security.

"Officer's Certificate" means a certificate signed by an Authorized Representative.

"Opinion of Counsel" means a written opinion of counsel which shall be acceptable to the District.

"Outstanding" when used with respect to Parity Debt means, as of the date of determination, all Parity Debt theretofore delivered under this Master Resolution or any Supplement, except:

- (1) Parity Debt theretofore cancelled and delivered to the District or delivered to the Paying Agent or the Registrar for cancellation;
- (2) Parity Debt deemed to be Defeased Debt;
- (3) Parity Debt upon transfer of or in exchange for and in lieu of which other Parity Debt has been authenticated and delivered pursuant to this Master Resolution or any Supplement; and
- (4) Parity Debt under which the obligations of the District have been released, discharged, or extinguished in accordance with the terms thereof;

provided, however, that unless the same is acquired for purposes of cancellation, Parity Debt owned by the District and Parity Debt purchased with funds advanced pursuant to a Credit Agreement shall be deemed to be Outstanding as though it was owned by any other owner.

"Outstanding Principal Amount" means, as of any record date established by a Registrar in connection with a proposed amendment of this Master Resolution or any Supplement, with respect to all Parity Debt or to a series of Parity Debt that is in the form of bonds, notes, or other similar instruments that have a stated principal amount, the outstanding and unpaid principal amount of such Parity Debt on which interest is paid on a current basis and the outstanding and unpaid principal and compounded interest on such Parity Debt paying accrued, accreted, or compounded interest only at maturity and, with respect to Credit Agreements shall total the amount, if any, then due under such Credit Agreement if it was to be terminated as of the date of calculation of Outstanding Principal Amount.

"Parity Debt" means all Debt of the District which may be issued or assumed in accordance with the terms of this Master Resolution and a Supplement secured by a lien on and pledge of the Security.

"Paying Agent" means each entity designated in a Supplement as the place of payment of a series or issue of Parity Debt.

"Pledged Revenues" means (1) the Net Revenues plus (2) any additional revenues, income, receipts, or other resources, including, without limitation, any grants, donations or income received or to be received from the United States Government, or any other public or private source, whether pursuant to an agreement or otherwise, which hereafter are pledged by the District to the payment of the Parity Debt, and excluding those revenues excluded from Gross Revenues.

"Registrar" means the entity designated in a Supplement as the Registrar of a series or issue of Parity Debt.

"Reserve Account Obligation" means a surety bond or insurance policy deposited in any reserve account established pursuant to a Supplement whereby the issuer is obligated to provide funds up to and including the maximum amount and under the conditions specified in such agreement or instrument.

"Security" has the meaning assigned to that term in Section 2(a) hereof.

"Special Project" means, to the extent permitted by law, any waterworks, sanitary sewer, wastewater reuse, drainage system or other similar system property, improvement or facility declared by the District not to be part of the Utility System, for which the costs of acquisition, construction and installation are paid from proceeds of a financing transaction other than the issuance of bonds payable from ad valorem taxes, Pledged Revenues or Net Revenues and for which all maintenance and operation expenses are payable from sources other than ad valorem taxes, Pledged Revenues or Net Revenues, but only to the extent that and for so long as all or any part of the revenues or proceeds of which are or will be pledged to secure the payment or repayment of such costs of acquisition, construction and installation under such financing transaction.

"State" means the State of Texas.

"Stated Maturity" when used with respect to any Parity Debt or any installment of interest thereon means any date specified in the instrument evidencing or authorizing such Parity Debt or such installment of interest as a fixed date on which the principal of such Parity Debt or any installment thereof or the fixed date on which such installment of interest is due and payable.

"Subordinated Debt" means any Debt which expressly provides that all payments thereon shall be subordinated to the timely payment of all Parity Debt then outstanding or subsequently issued.



"Supplement" means a resolution supplemental to, and authorized and executed pursuant to the terms of, this Master Resolution as may be supplemented or amended from time to time as authorized by the District and such Supplement.

"System Account" has the meaning assigned to that term in Section 3(b) hereof.

"Term of Issue" means with respect to any Balloon Debt a period of time equal to the greater of (i) the period of time commencing on the date of issuance of such Balloon Debt and ending on the final maturity date of such Balloon Debt or the maximum maturity date in the case of commercial paper or (ii) twenty-five years.

"Utility System" or "System" means as currently comprised, all properties, facilities, plants, improvements, equipment, interests and rights currently owned, operated and maintained by the District including the District's waterworks and sewer system for the supply, treatment, and transmission and distribution of treated potable water and collection and treatment of wastewater, and for water reuse, together with all future extensions, improvements, purchases, repairs, replacements and additions thereto, whether situated within or without the limits of the District, and all water (in any form) owned by the District and any revenues of the District's recreational system; provided, however, that the District expressly retains the right to (i) sale or disaggregate the Utility System as set forth in Section 6(q) of this Master Resolution and (ii) incorporate any other system (other than telecommunications system) as provided by the laws of the State as a part of the Utility System. The Utility System shall not include the Brushy Bend distribution system, any Special Project or any disaggregated part of the Utility System as provided in this Master Resolution.

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**CERTIFICATE FOR RESOLUTION**

**THE STATE OF TEXAS §**  
**COUNTY OF WILLIAMSON §**  
**BRUSHY CREEK MUNICIPAL UTILITY DISTRICT §**

We, the undersigned officers of the Board of Directors of the Brushy Creek Municipal Utility District (the "District"), hereby certify as follows:

The Board of Directors of the District convened in REGULAR MEETING ON THE 10th DAY OF DECEMBER, 2015, at the designated meeting place (the "Meeting"), and the roll was called of the duly constituted officers and members of the Board, to wit:

- Rebecca B. Tullos, President
- Russ Shermer, Vice President
- Kim Filiatrault, Secretary
- Shean R. Dalton, Treasurer
- Donna B. Parker – Assistant Secretary/Treasurer

and all of said persons were present, except the following absentees: none, thus constituting a quorum. Whereupon, among other business, the following was transacted at the Meeting: a written

**FIRST SUPPLEMENTAL RESOLUTION TO THE  
MASTER RESOLUTION ESTABLISHING THE  
BRUSHY CREEK MUNICIPAL UTILITY DISTRICT  
UTILITY SYSTEM REVENUE FINANCING PROGRAM**

was duly introduced for the consideration of the Board. It was then duly moved and seconded that the Resolution be passed; and, after due discussion, the motion, carrying with it the passage of the Resolution, prevailed and carried by the following vote:

AYES: 5

NOES: 0

A true, full and correct copy of the aforesaid Resolution passed at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that the Resolution has been duly recorded in the Board's minutes of the Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from the Board's minutes of the Meeting pertaining to the passage of the Resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the Board as indicated therein; that each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that the Resolution would be introduced and considered for passage at the Meeting, and each of the officers and members consented, in advance, to the holding of the Meeting for such purpose; that the

Meeting was open to the public and public notice of the time, place and purpose of the Meeting was given, all as required by Chapter 551, Government Code, as amended and Section 49.064, Texas Water Code, as amended.

**SIGNED AND SEALED** this December 10, 2015.

  
\_\_\_\_\_  
Secretary, Board of Directors

  
\_\_\_\_\_  
President, Board of Directors

(SEAL)

**FIRST SUPPLEMENTAL RESOLUTION TO THE  
MASTER RESOLUTION ESTABLISHING THE  
BRUSHY CREEK MUNICIPAL UTILITY DISTRICT  
UTILITY SYSTEM REVENUE FINANCING PROGRAM**

**Adopted December 10, 2015**

**FIRST SUPPLEMENTAL RESOLUTION TO THE  
MASTER RESOLUTION ESTABLISHING THE  
BRUSHY CREEK MUNICIPAL UTILITY DISTRICT  
UTILITY SYSTEM REVENUE FINANCING PROGRAM**

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**FIRST SUPPLEMENTAL RESOLUTION TO THE  
MASTER RESOLUTION ESTABLISHING THE  
BRUSHY CREEK MUNICIPAL UTILITY DISTRICT  
UTILITY SYSTEM REVENUE FINANCING PROGRAM**

**THE STATE OF TEXAS** §

**BRUSHY CREEK MUNICIPAL UTILITY DISTRICT** §

**WHEREAS**, on December 10, 2015, the Board of Directors of the Brushy Creek Municipal Utility District (the "District"), adopted a "Master Resolution Establishing the Brushy Creek Municipal Utility District Utility System Revenue Financing Program" (referred to herein as the "Master Resolution"); and

**WHEREAS**, in order to enable the District to provide for the financing of the utility system projects authorized by Chapter 49, Texas Water Code, as amended, and any other applicable provisions of State law, the Master Resolution establishes a revenue financing program pursuant to which the District can issue and enter into obligations, including bonds and other types of obligations, secured by and payable from a pledge of and lien on all or part of the Security, as hereinafter defined; and

**WHEREAS**, for such purposes, the District deems it necessary to issue Parity Debt, as hereinafter defined, pursuant to this "First Supplemental Resolution to the Master Resolution establishing the Brushy Creek Municipal Utility District Utility System Revenue Financing Program" (the "First Supplement"); and

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

**WHEREAS**, the Note authorized to be issued by this First Supplement is to be issued and delivered pursuant to Section 49.153 Texas Water Code, as amended, and other applicable State laws.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF BRUSHY CREEK MUNICIPAL UTILITY DISTRICT THAT:**

**ARTICLE I  
NOTE ISSUED UNDER UTILITY SYSTEM  
REVENUE FINANCING PROGRAM**

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



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

**Section 1.02. ESTABLISHMENT OF FINANCING PROGRAM AND ISSUANCE OF PARITY DEBT.** (a) First Supplement. By adoption of the Master Resolution, the District has established the Brushy Creek Municipal Utility District Utility System Revenue Financing Program for the purpose of enabling the District to provide for the financing of projects authorized by applicable provisions of State law pursuant to which the District may issue and enter into obligations, including bonds, notes and other types of obligations, secured by and payable from a pledge of and lien on all or part of the Security. This First Supplement provides for the authorization, form, characteristics, provisions of payment and redemption, and security of the Note. This First Supplement is subject to the terms of the Master Resolution and the terms of the Master Resolution are incorporated herein by reference and as such are made a part hereof for all purposes.

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

**Section 1.03. FIRST SUPPLEMENT TO CONSTITUTE A CONTRACT; EQUAL SECURITY.** In consideration of the acceptance of the Note by those who shall hold the same from time to time, this First Supplement shall be deemed to be and shall constitute a contract between the District and the Owner of the Note, and the pledge made in this First Supplement by the District and the covenants and agreements set forth in this First Supplement to be performed by the District shall be for the equal and proportionate benefit, security, and protection of the Owner of the Note, without preference, priority, or distinction as to security or otherwise.

**Section 1.04. LIMITATION OF BENEFITS WITH RESPECT TO THIS FIRST SUPPLEMENT.** With the exception of the rights or benefits herein expressly conferred, nothing expressed or contained herein or implied from the provisions of this First Supplement or the Note is intended or should be construed to confer upon or give to any person other than the District, the Owner, and the Paying Agent/Registrar, any legal or equitable right, remedy, or claim under or by reason of or in respect to this First Supplement or any covenant, condition, stipulation, promise, agreement, or provision herein contained. This First Supplement and all of the covenants, conditions, stipulations, promises, agreements, and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the District, the Owner, and the Paying Agent/Registrar as herein and therein provided.

**ARTICLE II  
NOTE AUTHORIZATION AND SPECIFICATIONS**

**Section 2.01. AMOUNT, PURPOSE AND DESIGNATION OF THE NOTE.** The Note designated "**BRUSHY CREEK MUNICIPAL UTILITY DISTRICT UTILITY SYSTEM REVENUE NOTE, SERIES 2016**" (the "Note") is hereby authorized to be issued pursuant to this First Supplement in the aggregate principal amount of \$6,940,000 for the purpose of (i) paying the costs of acquiring, purchasing, constructing, improving, renovating, enlarging or equipping the District's Community Center for recreational purposes in accordance with Section 49.153, Texas Water Code, as amended and (ii) paying the costs associated with the issuance of the Note. The Note is authorized pursuant to authority conferred by and in conformity with State law, particularly the provisions of the Enabling Act.

The Note will be in the form of Current Interest Note as provided in Section 2.02 and the FORM OF NOTE in Exhibit "B" to this First Supplement.

**Section 2.02. DATE, DENOMINATIONS, NUMBERS, MATURITIES AND TERMS OF NOTE.** (a) Terms of Note. There shall initially be issued, sold and delivered a fully registered note, without interest coupons, in the form of current interest payable to the respective initial Registered Owner thereof, or to be registered assignee or assignees of said Note maturing on June 1, 2030 payable in installments as set forth below:

<b>YEAR</b>	<b>INTEREST RATE</b>	<b>PRINCIPAL INSTALLMENTS</b>
2016	2.63%	\$335,000
2017	2.63	395,000
2018	2.63	405,000
2019	2.63	420,000
2020	2.63	430,000
2021	2.63	440,000
2022	2.63	450,000
2023	2.63	465,000
2024	2.63	475,000
2025	2.63	490,000
2026	2.63	500,000
2027	2.63	515,000
2028	2.63	525,000
2029	2.63	540,000
2030	2.63	555,000

(b). Interest. The Note shall bear interest from the dates specified in the FORM OF NOTE set forth in this First Supplement to maturity or redemption at the rates per annum as set

forth herein. Interest shall be payable in the manner provided and on the dates stated in the FORM OF NOTE set forth in this First Supplement.

(c) In General. The Note (i) may and shall be redeemed prior to the respective scheduled maturity date, (ii) may be assigned and transferred only to an affiliate or subsidiary of the Purchaser, (iii) may be exchanged for another Note, (iv) shall have the characteristics, and (v) shall be signed and sealed, and the principal of and interest on the Note shall be payable, all as provided, and in the manner required or indicated, in the FORM OF NOTE set forth in Exhibit "B" to this First Supplement.

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

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

Branch Banking and Trust Company is hereby appointed as Paying Agent/Registrar for the Note. By accepting the appointment as Paying Agent/Registrar, the Paying Agent/Registrar acknowledges receipt of copies of the Master Resolution and this First Supplement, and is deemed to have agreed to the provisions thereof and hereof.

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

The District expressly reserves the right to appoint one or more successor Paying Agent/Registrars, by filing with the Paying Agent/Registrar a certified copy of a resolution or minute order of the District making such appointment. The District further expressly reserves the right to terminate the appointment of the Paying Agent/Registrar by filing a certified copy of a resolution of the District giving notice of the District's termination of the District's agreement with such Paying Agent/Registrar and appointing a successor. The District covenants to maintain and provide a Paying Agent/Registrar at all times until the Note is paid and discharged, and any successor Paying Agent/Registrar shall be a bank, trust company, financial institution, or other

entity duly qualified and legally authorized to serve as and perform the duties and services of Paying Agent/Registrar for the Note. If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Security Register (or a copy thereof) and all other pertinent books and records relating to the Note to the successor Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar, the District agrees promptly to cause a written notice thereof to be sent to each Owner by United States mail, first-class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

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

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

In the event of a nonpayment of interest on a scheduled payment date on a Note, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the District. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Owner of a Note appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

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

(b) Notices of Redemption and Defeasance. (i) Unless waived by any Owner of the Note to be redeemed, the Chief Financial Officer shall give notice of redemption or defeasance to the Paying Agent/Registrar at least thirty-five (35) days prior to a redemption date in the case of a redemption (unless a lesser period is acceptable to the Paying Agent/Registrar) and on the defeasance date in the case of a defeasance and the Paying Agent/Registrar shall give notice of redemption or of defeasance of Note by mail, first-class postage prepaid at least thirty (30) days prior to a redemption date and within thirty (30) days after a defeasance date to each Owner and to

the central post office or each registered securities depository and to any national information service that disseminates such notices. In addition, in the event of a redemption caused by an advance refunding of the Note, the Paying Agent/Registrar shall send a second notice of redemption to the persons specified in the immediately preceding sentence at least thirty (30) days but not more than ninety (90) days prior to the actual redemption date. Any notice sent to the central post office or registered securities depositories or such national information services shall be sent so that they are received at least two (2) days prior to the general mailing or publication date of such notice. The Paying Agent/Registrar shall also send a notice of prepayment or redemption to the Owner of any Note who has not sent the Note in for redemption sixty (60) days after the redemption date.

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

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

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

Upon surrender for transfer of any Note at the designated office of the Registrar, there shall be registered and delivered in the name of the designated transferee or transferees, one or more new Note, executed on behalf of, and furnished by, the District, of Authorized Denominations and

having the same Maturity and of a like aggregate principal amount as the Note surrendered for transfer.

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

Any Note issued upon any transfer or exchange of a Note shall be delivered at the principal office of the Registrar or sent by United States mail, first-class, postage prepaid to the Owner or the designee thereof, and, upon the registration and delivery thereof, the same shall be the valid obligations of the District, evidencing the same debt, and entitled to the same benefits under the Master Resolution and this First Supplement, as the Note surrendered in such transfer or exchange.

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

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

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

(b) Ownership of Note. The entity in whose name any Note shall be registered in the Security Register at any time shall be deemed and treated as the absolute Owner thereof for all purposes of this First Supplement, whether or not such Note shall be overdue, and, to the extent permitted by law, the District and the Paying Agent/Registrar shall not be affected by any notice to the contrary; and payment of, or on account of, the principal of, premium, if any, and interest on any such Note shall be made only to such Owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid.

**Section 2.06. INITIAL NOTE.** The Note shall initially be issued as a fully registered note, being one note (the "Initial Note"). The Initial Note shall be registered in the name of Branch Banking and Trust Company. The Initial Note shall be submitted to the Office of the Attorney General of the State for approval and registration by the Office of the Comptroller of Public Accounts of the State and delivered to the purchaser thereof. Immediately after the delivery of the Initial Note on the Issuance Date, the Registrar shall cancel the Initial Note and exchange therefor a Note in the form of a separate single fully-registered Note payable in installments.

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

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

### **ARTICLE III EXECUTION; REPLACEMENT OF NOTE**

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

No Note shall be entitled to any right or benefit under this First Supplement, or be valid or obligatory for any purpose, unless there appears on such Note either a certificate of registration substantially in the form provided in Exhibit "B" to this First Supplement, executed by the Comptroller of Public Accounts of the State or its duly authorized agent by manual signature, or the Paying Agent/Registrar's Authentication Certificate substantially in the form provided in Exhibit "B" to this First Supplement executed by the manual signature of an authorized officer or

employee of the Registrar, and either such certificate duly signed upon any Note shall be conclusive evidence, and the only evidence, that such Note has been duly certified, registered, and delivered.

**Section 3.02. CONTROL AND CUSTODY OF NOTES.** The Chief Financial Officer shall be and is hereby authorized to take and have charge of all necessary orders and records pending investigation and examination by the Attorney General of the State, including the printing and supply of printed Note, and shall take and have charge and control of the Initial Note pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts, and the delivery thereof to the purchaser.

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

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

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

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

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



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

Every new Note issued pursuant to this Section in lieu of any mutilated, destroyed, lost, or stolen Note shall constitute a replacement of the prior obligation of the District, whether or not the mutilated, destroyed, lost, or stolen Note shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this First Supplement equally and ratably with all other Outstanding Note.

#### **ARTICLE IV PAYMENTS, REBATE FUND AND RESERVE FUND**

**Section 4.01. PAYMENTS.** (a) Accrued and Capitalized Interest. Immediately after the delivery of the Note the District shall deposit any accrued interest and any sale proceeds to be used to pay capitalized interest received from the sale and delivery of such Note to the credit of the Interest and Sinking Account to be held to pay interest on such Note.

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

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

**Section 4.03. RESERVE ACCOUNT.** (a) To accumulate and maintain a reserve for the payment of the Note equal to the Average Annual Debt Service Requirements of the Note (calculated by the District at the beginning of each Fiscal Year) (the "Required Reserve Amount"), the Reserve Account has been established and shall be maintained by the District. Earnings and income derived from the investment of amounts held for the credit of the Reserve Account shall be retained in the Reserve Account until the Reserve Account contains the Required Reserve Amount; thereafter, such earnings and income shall be deposited to the credit of the System Account. The

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

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

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

(c) A Reserve Account Obligation issued in an amount equal to all or part of the Required Reserve Amount for the Note may be used in lieu of depositing cash into the Reserve Account. In

addition, a Reserve Account Obligation may be substituted for monies and investments in the Reserve Account if the substitution of the Reserve Account Obligation will not, in and of itself, cause any ratings then assigned to the Note by any rating agency to be lowered and the Resolution authorizing the substitution of the Reserve Account Obligation for all or part of the Required Reserve Amount contains a finding that such substitution is cost effective.

(d) Notwithstanding anything to the contrary contained herein, the requirement set forth in subsection (a) above to maintain the Required Reserve Amount in the Reserve Account shall be suspended for such time as the Net Revenues for each Fiscal Year are equal to at least 1.40 times the average Annual Debt Service Requirements. In the event that the Net Revenues for any Fiscal Year are less than 1.40 times the average Annual Debt Service Requirements, the District will be required to commence making Required Reserve Account Deposits, as provided in subsection (b) above, and to continue such Required Reserve Account Deposits until the earlier of (i) such time as the Reserve Account contains the Required Reserve Amount or (ii) the Net Revenues in each of two consecutive years have been equal to not less than 1.40 times the average Annual Debt Service Requirements. Notwithstanding the provisions of Section 4.03(a) of this section, if the District commences deposits in the Reserve Account and later is authorized to suspend payments into the fund under this section any funds so accumulated may, at the discretion of the District: (i) remain in the Reserve Account or (ii) be used for any lawful purpose including additional projects or to pay debt service on the Note.

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

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

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

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

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

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

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

**ARTICLE V**  
**COVENANTS REGARDING TAX EXEMPTION**

**Section 5.01. COVENANTS REGARDING TAX EXEMPTION.** (a) Covenants. The District covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Note as obligations described in section 103 of the Code, the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the District covenants as follows:

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

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

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

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

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

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

(A) proceeds of the Note invested for a reasonable temporary period of three (3) years or less until such proceeds are needed for the purpose for which the bonds are issued,

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

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

(7) to otherwise restrict the use of the proceeds of the Note or amounts treated as proceeds of the Note, as may be necessary, so that the Note do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage) and, to the extent applicable, section 149(d) of the Code (relating to advance refundings); and

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

(b) Rebate Account. In order to facilitate compliance with the above covenant in subsection (a)(8), a "Rebate Account" is hereby established by the District for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the bondholders. The Rebate Account is established for the additional purpose of compliance with section 148 of the Code.

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

preserve the exemption from federal income taxation of interest on the Note under section 103 of the Code. In furtherance of such intention, the District hereby authorizes and directs the Chief Financial Officer to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the District, which may be permitted by the Code as are consistent with the purpose for the issuance of the Note.

(d) Designation as Qualified Tax-Exempt Obligations. The District hereby designates the Note as "qualified tax-exempt obligations" as defined in section 265(b)(3) of the Code. In furtherance of such designation, the District represents, covenants and warrants the following: (a) that during the calendar year in which the Note is issued, the District (including any subordinate entities) has not designated nor will designate obligations, which when aggregated with the Note, will result in more than \$10,000,000 of "qualified tax-exempt bonds" being issued; (b) that the District reasonably anticipates that the amount of tax-exempt obligations issued, during the calendar year in which the Note is issued, by the District (or any subordinate entities) will not exceed \$10,000,000; and (c) that the District will take such action or refrain from such action as necessary, and as more particularly set forth in this Section, in order that the Note will not be considered "private activity bonds" within the meaning of section 141 of the Code.

**Section 5.02. ALLOCATION OF, AND LIMITATION ON, EXPENDITURES FOR PROJECT.** The District covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 2.01 of this First Supplement on its books and records by allocating proceeds to expenditures within 18 months of the later of the date that (i) the expenditure is made, or (ii) the purposes for which the Note is issued have been accomplished. The foregoing notwithstanding, the District shall not expend sale proceeds or investment earnings thereon more than 60 days after the earlier of (i) the fifth anniversary of the delivery of the Note, or (ii) the date the Note is retired, unless the District obtains an opinion of nationally-recognized bond counsel that such expenditure will not adversely affect the tax-exempt status of the Note. For purposes hereof, the District shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

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

**ARTICLE VI  
AMENDMENTS AND MODIFICATIONS**

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

- (i) To add to the covenants and agreements of the District contained in this First Supplement, other covenants and agreements thereafter to be observed, or to surrender any right or power reserved to or conferred upon the District in this First Supplement;
- (ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this First Supplement, upon receipt by the District of an Opinion of Counsel, that the same is needed for such purpose, and will more clearly express the intent of this First Supplement;
- (iii) To supplement the Security for the Note;
- (iv) To make such other changes in the provisions hereof, as the District may deem necessary or desirable and which shall not, in the judgment of the District, materially adversely affect the interests of the Owners of the Outstanding Note;
- (v) To make any changes or amendments requested by the State Attorney General's Office as a condition to the approval of the Note, which changes or amendments do not, in the judgment of the District, materially adversely affect the interests of the Owners of the Outstanding Note; or
- (vi) To make any changes or amendments requested by any bond rating agency then rating or requested to rate the Note, as a condition to the issuance or maintenance of a rating, which changes or amendments do not, in the judgment of the District, materially adversely affect the interests of the Owners of the Outstanding Note.

**Section 6.02. AMENDMENTS OR MODIFICATIONS WITH CONSENT OF OWNERS OF NOTES.** (a) Amendments. Subject to the other provisions of this First Supplement and the Master Resolution, the Owners of Outstanding Note aggregating a majority in Outstanding Principal Amount shall have the right from time to time to approve any amendment, other than amendments described in Section 6.01 hereof, to this First Supplement that may be deemed necessary or desirable by the District, provided, however, that nothing herein contained



shall permit or be construed to permit, without the approval of the Owner of all of the Outstanding Note, the amendment of the terms and conditions in this First Supplement or in the Note so as to:

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

(b) Notice. If at any time the District shall desire to amend this First Supplement pursuant to Subsection (a), the District shall cause notice of the proposed amendment to be published in a financial newspaper or journal of general circulation in the City of New York, New York (including, but not limited to, The Bond Buyer or The Wall Street Journal) or in the State (including, but not limited to, The Texas Bond Reporter), once during each calendar week for at least two successive calendar weeks or disseminated by electronic means customarily used to convey notices of redemption. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the Paying Agent/Registrar for inspection by all Owners of Note. Such publication is not required, however, if the District gives or causes to be given such notice in writing to each Owner of Note. A copy of such notice shall be provided in writing to each rating agency maintaining a rating on the Note and to the Bond Insurer.

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

(d) Consent Irrevocable. Any consent given by any Owner pursuant to the provisions of this Section shall be irrevocable for a period of six (6) months from the date of the first publication or other service of the notice provided for in this Section, and shall be conclusive and binding upon all future Owners of the same Note during such period. Such consent may be revoked at any time after six (6) months from the date of the first publication of such notice by the Owner who gave such consent, or by a successor in title, by filing notice thereof with the Paying

Agent/Registrar and the District, but such revocation shall not be effective if the Owners of Outstanding Note aggregating a majority in Outstanding Principal Amount prior to the attempted revocation consented to and approved the amendment. Notwithstanding the foregoing, any consent given at the time of and in connection with the initial purchase of Note shall be irrevocable.

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

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

## ARTICLE VII MISCELLANEOUS

**Section 7.01. DISPOSITION OF BOND PROCEEDS AND OTHER FUNDS**. Proceeds from the sale of the Note shall, promptly upon receipt thereof, be applied by the Chief Financial Officer as follows:

- (i) any underwriting discount or fees and any Credit Agreement fees for the Note may be retained by and/or wired directly to such parties;
- (ii) any accrued interest and sale proceeds to be used to pay capitalized interest for the Note, if any, shall be deposited as provided in Section 4.01;
- (iii) an amount sufficient to pay the remaining costs of issuance of the Note and the cost of acquiring, purchasing, constructing, improving, enlarging, and equipping the improvements being financed with the proceeds of the Note shall be deposited in the Bond Proceeds Account to be used for such purposes.

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

**Section 7.02. MAILED NOTICES**. Except as otherwise required herein, all notices required or authorized to be given to the District, any Note Insurer (as defined in, and pursuant to, Section 3.06 hereof) or the Paying Agent/Registrar pursuant to this First Supplement shall be in

writing and shall be sent by registered or certified mail, postage prepaid, to the following addresses or otherwise given in a manner deemed, in writing, acceptable to the party to receive the notice:

1. to the District:  
Brushy Creek Municipal Utility District  
16318 Great Oaks Drive  
Round Rock, Texas 78681-2506  
Attn: General Manager  
Telephone: (512) 255-7871

2. to the Paying Agent/Registrar:  
Branch Banking and Trust Company  
5130 Parkway Plaza Boulevard  
Charlotte, North Carolina 28217  
Attn: Mary Parish Coley  
Telephone: (704) 954-1700

3. to any Bond Insurer:  
The address, phone number and fax number specified by the Bond Insurer

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

**Section 7.03. DEFEASANCE OF NOTES.** (a) Deemed Paid. The principal of and/or the interest and redemption premium, if any, on any Note shall be deemed to be Defeased Debt within the meaning of the Master Resolution, except to the extent provided in subsections (c) and (e) of this Section, when payment of the principal of such Note, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption or the establishment of irrevocable provisions for the giving of such notice) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar for such Note or an eligible trust company or commercial bank for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the District with the Paying Agent/Registrar for such Note or an eligible trust company or commercial bank for the payment of its services until all Defeased Debt shall have become due and payable or (3) any combination of (1) and (2). At such time as Note shall be deemed to be a Defeased Debt hereunder, as aforesaid, such Note and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of the Security as provided in the Master Resolution and this First

Supplement, and such principal and interest shall be payable solely from such money or Defeasance Securities.

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

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

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

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

**Section 7.04. SALE OF NOTE AND PAYING AGENT/REGISTRAR AGREEMENT.** (a) The Note is hereby sold, pursuant to the taking of bids, and shall be delivered to Branch Banking and Trust Company (the "Purchaser") in accordance with the terms and provisions of that certain Investment and Purchase Letter relating to the Note between the District and the Purchaser and dated the date of the passage of this First Supplement. The form and content of such Investment and Purchase Letter are hereby approved, and the General Manager of the District is hereby authorized and directed to execute and deliver such Purchase and Investment Letter. The Board hereby finds and determines that the net effective interest rate on the Note, as calculated pursuant to Chapter 1204, Texas Government Code, as amended, is 2.636541%. Pursuant to Section 1201.002(a)(3), Texas Government Code, as amended, it is hereby officially found, determined, and declared that the terms of this sale are the most advantageous reasonably obtainable and in the best interest of the District, and the Purchaser's sealed bid produced the lowest net effective interest rate to the District as required by Section 49.183 of the Texas Water Code.. The Initial Note shall be registered in the name of Branch Banking and Trust Company.

(b) The Paying Agent/Registrar Agreement by and between the District and the Paying Agent/Registrar is hereby approved and the Chief Financial Officer or the President of the Board is hereby authorized to execute, and deliver such Paying Agent/Registrar Agreement.

**Section 7.05. FURTHER PROCEDURES.** Each Authorized Representative is hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the District all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this First Supplement, the Note, the sale and delivery of the Note, and fixing all details in connection therewith, and the Paying Agent/Registrar Agreement. In connection with the issuance and delivery of each the Note, the above-stated officers, with the advice of the District's Attorney and Bond Counsel to the District, are hereby authorized to approve, subsequent to the date of the adoption of this First Supplement, any amendments to the above named documents, and any technical amendments to this First Supplement as permitted by Section 6.01 (v) or (vi) and a Authorized Representative is hereby authorized to execute this First Supplement to evidence approval of such changes.

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

Any moneys so deposited with and held by the Paying Agent/Registrar due to nonpresentment of Note must be retained by the Paying Agent/Registrar for a period of at least two years after the final maturity date of the Note or advance refunding date, if applicable. Thereafter,

to the extent permitted by the unclaimed property laws of the State, such amounts shall be paid by the Paying Agent/Registrar to the District, free from the trusts created by this First Supplement and Owners shall be entitled to look only to the District for payment, and then only to the extent of the amount so repaid by the Paying Agent/Registrar.

**Section 7.07. EFFECT OF SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS.**

Whenever this First Supplement requires any action to be taken on a Saturday, Sunday, or legal holiday, such action shall be taken on the first business day occurring thereafter. Whenever in this First Supplement the time within which any action is required to be taken or within which any right will lapse or expire shall terminate on a Saturday, Sunday, or legal holiday, such time shall continue to run until midnight on the next succeeding business day.

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

**Section 7.09. CONTINUING DISCLOSURE UNDERTAKING.** The District shall provide annually to the MSRB, in an electronic format as prescribed by the MSRB, within six months after the end of any fiscal year an audit of the District.

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

**Section 7.11. DEFAULT AND REMEDIES.** (a) Events of Default. Each of the following occurrences or events for the purpose of this First Supplement is hereby declared to be an Event of Default:

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

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

(b) Remedies for Default.

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

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

(c) Remedies Not Exclusive.

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

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

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

(iv) None of the members of the Board of Directors of the District, nor any other official or officer, agent, or employee of the District, shall be charged personally by the Registered Owners with any liability, or be held personally liable to the Registered Owners

under any term or provision of this First Supplement, or because of any Event of Default or alleged Event of Default under this First Supplement.

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

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

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

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

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

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

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

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

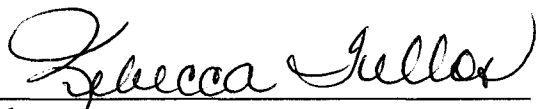
**Section 7.13. INDIVIDUALS NOT LIABLE.** All covenants, stipulations, obligations, and agreements of the District contained in this First Supplement shall be deemed to be covenants, stipulations, obligations, and agreements of the Financing Program, the Utility System and the District to the full extent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

**Section 7.14. PAYMENT OF ATTORNEY GENERAL FEE.** The District hereby authorizes the disbursement of a fee equal to the lesser of (i) one-tenth of one percent of the principal amount of the Note or (ii) \$9,500, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State

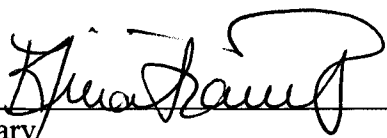


of Texas for the Attorney General's review and approval of public securities and credit agreements, as required by Section 1202.004 of the Texas Government Code. The Authorized Representative is hereby instructed to take the necessary measures to make this payment. The District is also authorized to reimburse the appropriate District funds for such payment from proceeds of the Note of each Series.

**PASSED, APPROVED AND EFFECTIVE** this 10th day of December, 2015.

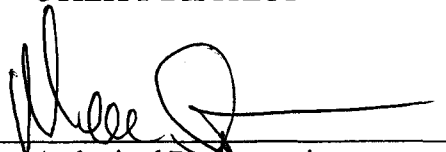
  
\_\_\_\_\_  
President  
Brushy Creek Municipal Utility District

**ATTEST:**

  
\_\_\_\_\_  
Secretary  
Brushy Creek Municipal Utility District

The District has caused this First Supplement to be executed by an Authorized Representative.

**BRUSHY CREEK MUNICIPAL  
UTILITY DISTRICT**

By:   
Authorized Representative

## **EXHIBIT A DEFINITIONS**

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

"Authorized Representative" - Means the General Manager of the District or such other individuals so designated by the District to perform the duties of an Authorized Representative under this First Supplement.

"Chief Financial Officer" - Means the General Manager or such other officer or employee of the District or such other individual so designated by the District to perform the duties of Chief Financial Officer under this First Supplement.

"Current Interest Note" - The Note paying current interest and maturing in each of the years and in the aggregate principal amounts set forth in this First Supplement.

"Defeasance Securities" - Means (i) Federal Securities, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the District adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Note is rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the District adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Note, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its equivalent and (iv) any other then authorized securities or obligations under applicable State law that may be used to defease obligations such as the Note.

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

"First Supplement" - This First Supplemental Resolution, which was adopted pursuant to authority reserved by the District under the Master Resolution.

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

"Master Resolution" - The "Master Resolution Establishing the Utility System Revenue Financing Program," adopted by the District on December 10, 2015, as may be amended or supplemented from time to time.

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

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

"MSRB" - The Municipal Securities Rulemaking Board.

"Note" - The Note issued pursuant to this First Supplement as described in Article II hereof.

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

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

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

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

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

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

"Record Date" - With respect to each interest payment date of a Note, the 15<sup>th</sup> day of the next preceding month.

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

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

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

"Resolution" - Collectively, the Master Resolution and the First Supplement.

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

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

**EXHIBIT B**

**FORM OF NOTE**

**UNITED STATES OF AMERICA  
STATE OF TEXAS  
COUNTY OF WILLIAMSON  
BRUSHY CREEK MUNICIPAL UTILITY DISTRICT  
UTILITY SYSTEM REVENUE NOTE,  
SERIES 2016**

No. R-\_\_\_\_\_

**\$6,940,000**

<b><u>DATED</u></b>	<b><u>INTEREST</u></b>	<b><u>MATURITY</u></b>
<b><u>DATE:</u></b>	<b><u>RATE:</u></b>	<b><u>DATE:</u></b>
January 1, 2016	2.63%	June 1, 2030

**REGISTERED OWNER: BRANCH BANKING AND TRUST COMPANY**

**PRINCIPAL AMOUNT: SIX MILLION NINE HUNDRED FORTY THOUSAND DOLLARS**

The Brushy Creek Municipal Utility District (the "District") hereby promises to pay, solely from the sources hereinafter identified and as hereinafter stated, to the Registered Owner named above, or the registered assigns thereof, on June 1 in the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<b>YEAR</b>	<b>INTEREST RATE</b>	<b>PRINCIPAL INSTALLMENTS</b>
2016	2.63%	\$335,000
2017	2.63	395,000
2018	2.63	405,000
2019	2.63	420,000
2020	2.63	430,000
2021	2.63	440,000
2022	2.63	450,000
2023	2.63	465,000
2024	2.63	475,000
2025	2.63	490,000
2026	2.63	500,000
2027	2.63	515,000
2028	2.63	525,000
2029	2.63	540,000
2030	2.63	555,000

In the principal amount of \$6,940,000 and to pay interest on the unpaid principal amount hereof from the date of initial delivery of the Note at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on June 1 and December 1 of each year, commencing June 1, 2016. Principal of this Note shall be payable to the Registered Owner hereof, upon presentation and surrender, at the designated office of the Paying Agent/Registrar named in the registration certificate appearing hereon, or its successor. Interest shall be payable to the Registered Owner of this Note whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the fifteenth day of the preceding month. All payments of principal of, premium, if any, and interest on this Note shall be payable in lawful money of the United States of America, without exchange or collection charges, and interest payments shall be made by the Paying Agent/Registrar by check sent on or before the appropriate date of payment, by United States mail, first-class postage prepaid, to the Registered Owner hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner hereof.

This Note is issued pursuant to the laws of the State of Texas, including specifically Section 49.153, Texas Water Code, and initially under and pursuant to a resolution of the District adopted on December 10, 2015, and entitled "First Supplemental Resolution to the Master Resolution Establishing the Brushy Creek Municipal Utility District Utility System Revenue Financing Program" (the "First Supplement") for the purpose of (i) paying the costs of acquiring, purchasing, constructing, improving, renovating, enlarging or equipping the District's Community Center and (ii) paying the costs associated with the issuance of the Note. The Note is authorized pursuant to authority conferred by and in conformity with State law, particularly the provisions of the Enabling Act. The Note is secured by a first lien on and pledge of the Security as defined in the Master Resolution adopted on December 10, 2015 (the "Master Resolution"), on a parity with all other Parity Debt (as defined in the Master Resolution and the First Supplement).

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

The Note is issued as "Current Interest Note," which totals in principal amount \$6,940,000, and which pays accrued interest at stated intervals to the Registered Owner.

### **Redemption Provisions**

The Note is subject to redemption prior to maturity at the option of the District, in whole, on June 1, 2024, and on any date thereafter, at a redemption price equal to the principal amount thereof plus accrued interest from the most recent payment date to the date fixed for redemption. The Note is also subject to a one-time partial redemption of the note at any time on or after June 1, 2024 at a redemption price equal to the principal amount plus accrued interest.

At least 30 days prior to the date fixed for any redemption of Note or a one-time partial redemption thereof prior to maturity, a written notice of such redemption shall be sent by the



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

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

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

If this Note is in a denomination in excess of \$5,000, portions of the principal sum hereof in principal amount of \$5,000 or any integral multiple thereof may be redeemed, and, if less than all of the principal sum hereof is to be redeemed, there shall be issued, without charge therefor, to the Registered Owner hereof, upon the surrender of this Note at the principal office of the Paying Agent/Registrar, a new Note of like maturity, series and interest rate in any authorized denominations provided by the Resolution for the then unredeemed balance of the principal amount hereof. If this Note is selected for redemption, in whole or one-time in part, neither the District nor the Paying Agent/Registrar shall be required to transfer this Note to an assignee of the Registered Owner within forty-five (45) days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to any exchange by the Registered Owner of the unredeemed balance hereof in the event of its one-time redemption in part.

The Note is a special obligation of the District payable solely from and equally secured by a lien on and pledge of the Security. The Note does not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the District, except with respect to the Security.

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

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

Reference is hereby made to the Resolution, a copy of which is on file in the designated office of the Paying Agent/Registrar, and to all of the provisions of which any Registered Owner of this Note by his acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for the Note; the Security; the nature and extent and manner of enforcement of the pledge; the terms and conditions for the issuance of additional Parity Debt; the conditions upon which the Resolution may be amended or supplemented with or without the consent of the Registered Owners of the Note; the rights and remedies of the Registered Owner hereof with respect hereto and thereto; the rights, duties and obligations of the District; the terms and provisions upon which the liens, pledges, charges, and covenants made therein may be discharged at or prior to the maturity or redemption of this Note and this Note thereafter no longer to be secured by the Resolution or be deemed to be outstanding thereunder; and for the other terms and provisions thereof.

This Note, subject to certain limitations contained in the Resolution, may be transferred to an affiliate or subsidiary of the Owner only upon its presentation and surrender at the designated office of the Paying Agent/Registrar named below, or its successor with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the Registered Owner hereof, or his duly authorized agent, and such transfer is noted on the Security Register by the Paying Agent/Registrar. When a transfer occurs, one or more new fully-registered Note of the same Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued to the designated transferee or transferees.

The District and the Paying Agent/Registrar, and any agent of either, shall treat the Registered Owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Note as the owner entitled to payment of principal hereof at its Maturity or its redemption, in whole or one-time in part, and (iii) on any other date as the owner for all other purposes, and neither the District nor the Paying Agent/Registrar, nor any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received

from the District. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Registered Owner appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented, and declared that the District is a duly organized and legally existing municipal utility district, organized under and by virtue of the Constitution and laws of the State of Texas; that the issuance of this Note and the series of which it is a part are duly authorized by law; that all acts, conditions, and things required to exist and be done precedent to and in the issuance of this Note to render the same lawful and valid have been properly done, have happened, and have been performed in regular and due time, form, and manner as required by the Constitution and laws of the State of Texas and the Resolution; that this Note does not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of this Note. In case any provision in this Note shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The terms and provisions of this Note and the Resolution shall be construed in accordance with and shall be governed by the laws of the State of Texas. The holder of this Note is not entitled to demand payment of this Note out of any money raised by taxation.

**IN TESTIMONY WHEREOF**, the District has caused its seal to be impressed or a facsimile thereof to be printed hereon and this Note to be executed in the name of and on behalf of the District with the manual or facsimile signatures of its President, and attested by the District Secretary.

**BRUSHY CREEK MUNICIPAL UTILITY DISTRICT**

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

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

(SEAL)

(b) [Form of Payment Record]

**PAYMENT RECORD**

Date of Payment	Principal Payment (amount and installment(s) to which payment is applied)	Remaining Principal Balance	Name and Title of Authorized Officer Making Entry	Signature of Authorized Officer
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____


(c) [Form of Certificate of Paying Agent/Registrar]

**CERTIFICATE OF PAYING AGENT/REGISTRAR**

This is the Note referred to in the within mentioned Resolution. The Note is originally issued as one Note which was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Branch Banking and Trust Company,  
as Paying Agent/Registrar

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Signatory

(d) [Form of Assignment]

**ASSIGNMENT**

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

(Social Security or other identifying number: \_\_\_\_\_) the within Note and all rights hereunder and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Note on the books kept for registration hereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

**NOTICE:** The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Note in every particular and must be guaranteed in a manner acceptable to the Paying Agent/Registrar.

Signature Guaranteed By:

\_\_\_\_\_  
Authorized Signatory

(e) The following Registration Certificate of Comptroller of Public Accounts shall appear on the initial Note in lieu of the Certificate of Paying Agent/Registrar:

**REGISTRATION CERTIFICATE OF  
COMPTROLLER OF PUBLIC ACCOUNTS**

**OFFICE OF THE COMPTROLLER** §  
**OF PUBLIC ACCOUNTS** § REGISTER NO. \_\_\_\_\_  
§  
**THE STATE OF TEXAS** §

**I HEREBY CERTIFY THAT** there is on file and of record in my office a certificate to the effect that the Attorney General of the State of Texas has approved this Note, and that this Note has been registered this day by me.

**WITNESS MY SIGNATURE AND SEAL OF OFFICE** this \_\_\_\_\_

[SEAL]

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

## PAYING AGENT/REGISTRAR AGREEMENT

**THIS AGREEMENT** entered into as of December 10, 2015 (this "Agreement"), by and between the Brushy Creek Municipal Utility District (the "Issuer") and Branch Banking and Trust Company, a state banking association duly organized and existing under the laws of the State of North Carolina and authorized to transact business in the State of Texas (the "Bank").

### RECITALS

**WHEREAS**, the Issuer has duly authorized and provided for the issuance of its \$6,940,000 Brushy Creek Municipal Utility District Utility System Revenue Note, Series 2016 (the "Securities"), such Securities to be issued in fully registered form only as to the payment of principal and interest thereon; and

**WHEREAS**, the Securities are scheduled to be delivered to the purchaser thereof on or about January 14, 2016; and

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

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

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

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

#### Section 1.01. Appointment.

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

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

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

**Section 1.02. Compensation.**

As compensation for the Bank's services as Paying Agent/Registrar, the Issuer hereby agrees to pay the Bank a fee of \$0 annually.

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

**ARTICLE TWO  
DEFINITIONS**

**Section 2.01. Definitions.**

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

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

"Financial Advisor" means Robert W. Baird & Co., Public Finance.

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

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

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

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

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

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

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

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

"Responsible Officer" when used with respect to the Bank means the Chairman or Vice-Chairman of the Board of Directors, the Chairman or Vice-chairman of the Executive Committee of the Board of Directors, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, the Cashier, any Assistant Cashier, any Trust Officer or Assistant Trust Officer, or any other officer of the Bank customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

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

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

**Section 2.02. Other Definitions.**

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

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

**ARTICLE THREE  
PAYING AGENT**

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

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the principal of each Security at its Stated Maturity or Redemption Date to the Holder upon surrender of the Security to the Bank at the Bank Office.

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the interest on each Security when due, by computing the amount of interest to be paid each Holder and preparing and sending checks by United States Mail, first-class postage prepaid, on each payment date, to the Holders of the Securities (or their Predecessor Securities) on the respective Record Date, to the



address appearing on the Security Register or by such other method, acceptable to the Bank, requested in writing by the Holder at the Holder's risk and expense.

Principal and interest payments made pursuant to this Section 3.01 shall be made by wire transfer.

**Section 3.02. Payment Dates.**

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

**Section 3.03. Reporting Requirements.**

To the extent required by the Internal Revenue Code of 1986 or the Treasury Regulations, the Bank shall report to or cause to be reported to the Holders and the Internal Revenue Service (i) the amount of "reportable payments," if any, subject to back up withholding during each year and the amount of tax withheld, if any, with respect to the payments on the Securities and (ii) any amount of acquisition premium interest paid on, original issue discount or adjusted basis of the Securities.

**ARTICLE FOUR  
REGISTRAR**

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

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

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

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

To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Securities, the exchange or transfer by the Holders thereof will be

completed and new Securities delivered to the Holder or the assignee of the Holder in not more than three (3) business days after the receipt of the Securities to be cancelled in an exchange or transfer and the written instrument of transfer or request for exchange duly executed by the Holder, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

**Section 4.02. Certificates.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**ARTICLE FIVE  
THE BANK**

**Section 5.01. Duties of Bank.**

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

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

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

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

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

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

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

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

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

**Section 5.03. Recitals of Issuer.**

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

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

**Section 5.04. May Hold Securities.**

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

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

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

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

**Section 5.06. Indemnification.**

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

**Section 5.07. Interpleader.**

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

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

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

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

## **ARTICLE SIX MISCELLANEOUS PROVISIONS**

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

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

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

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

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

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

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

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

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

All covenants and agreements herein by the Issuer and the Bank shall bind their respective successors and assigns, whether so expressed or not.

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

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

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

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

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

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

**Section 6.09. Counterparts.**

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

**Section 6.10. Termination.**

This Agreement will terminate (i) on the date of final payment of the principal of and interest on the Securities to the Holders thereof or (ii) may be earlier terminated by either party upon thirty (30) days written notice; provided, however, an early termination of this Agreement by either party shall not be effective until (a) a successor Paying Agent/Registrar has been appointed by the Issuer and such appointment accepted and (b) notice has been given to the Holders of the Securities of the appointment of a successor Paying Agent/Registrar. Furthermore, the Bank and Issuer mutually agree that the effective date of an early termination of this Agreement shall not occur at any time which would disrupt, delay or otherwise adversely affect the payment of the Securities.

Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Security Register (or a copy thereof), together with other pertinent books and records relating to the Securities, to the successor Paying Agent/Registrar designated and appointed by the Issuer.

The provisions of Section 1.02, 5.02, 5.03 and 5.06 of this Agreement shall survive and remain in full force and effect following the termination of this Agreement.

**Section 6.11. Governing Law.**

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

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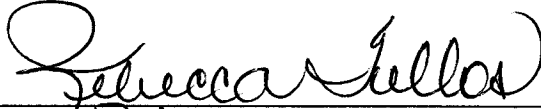
**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first above written.

**BRANCH BANKING AND TRUST COMPANY**

By: Mary Parrish Coley  
Name: Mary Parrish Coley  
Title: Disc President  
5130 Parkway Plaza  
Charlotte, North Carolina 28217



**BRUSHY CREEK MUNICIPAL  
UTILITY DISTRICT**

By:   
Name: Rebecca Tullas  
Title: President

16318 Great Oaks Drive  
Round Rock, Texas 78681

Governmental Finance  
5130 Parkway Plaza Blvd.  
Charlotte, NC 28217  
(704) 954-1700  
Fax (704) 954-1799

December 10, 2015

Board of Directors,  
Brushy Creek Municipal Utility District  
16318 Great Oaks Drive  
Round Rock, Texas 78681

McCall, Parkhurst & Horton L.L.P.  
600 Congress Avenue, Suite 1800  
Austin, Texas 78701

Robert W. Baird & Co. Incorporated  
1331 Lamar Street, Suite 1360  
Houston, Texas 77010

I, the undersigned, being an authorized officer of Branch Banking and Trust Company (the "Purchaser"), being a financial institution, to-wit: a bank within the definition of section 3(a)(2) of the Securities Act of 1933, acknowledge that Brushy Creek Municipal Utility District (the "Issuer"), is issuing its Brushy Creek Municipal Utility District Utility System Revenue Note, Series 2016 (the "Note") for the purpose of financing the engineering and construction of the Issuer's community center for additional recreational facilities as provided in the Order of the Texas Commission on Environmental Quality dated May 1, 2015. The Note is to be issued under the authority of Chapters 49 and 54, Texas Water Code, as amended. The Purchaser hereby acknowledges receipt of the Master Resolution Establishing the Brushy Creek Municipal Utility District Utility System Revenue Financing Program (the "Master Resolution") and the First Supplemental Resolution to the Master Resolution authorizing the issuance and sale of the Note (the Master Resolution and the First Supplemental, collectively the "Resolution").

The Purchaser further understands that the Note is payable from, and secured by a first lien on and pledge of the Net Revenues of the District's System, as provided in the Resolution, as such interest and principal come due.

The Purchaser further understands that the Note will be sold for cash and will be delivered in one installment in the form of one fully-registered Note representing the full maturity amount of the Note, \$6,940,000, which Note is payable in annual installments, as set forth below, on or before June 1, 2030, subject to redemption at the option of the Issuer. The

Note will be initially registered in the name of the Purchaser. The Issuer will be responsible for paying \$3,594.00 in Municipal Advisory Council Fees and Bank Counsel Fees.

In connection with the Note, the Purchaser agrees as follows:

- A. The Purchaser will purchase the Note, which shall be delivered to the Purchaser on or about January 14, 2016. The interest rate on the Note shall be fixed at 2.63% per annum. The first interest payment date for the Note shall be June 1, 2016, with interest payable on each December 1 and June 1 thereafter until maturity or prior redemption. Principal of the Note will be payable in annual installments, or upon redemption at the option of the Issuer, under the terms and conditions described below. The purchase price for the Note shall be the principal amount thereof. Interest on the Note will accrue from the date of initial delivery. Annual principal installment payments shall be made to the registered owner of the Note on June 1 of each of the years and in the amounts show below:

<u>Year</u>	<u>Installment Amount</u>	<u>Year</u>	<u>Installment Amount</u>
2016	\$335,000	2024	\$475,000
2017	395,000	2025	490,000
2018	405,000	2026	500,000
2019	420,000	2027	515,000
2020	430,000	2028	525,000
2021	440,000	2029	540,000
2022	450,000	2030	555,000
2023	465,000		

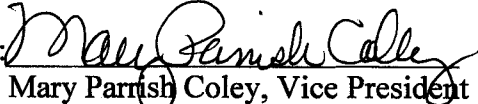
- B. It is understood and agreed that the Note is subject to redemption at the option of the Issuer at any time on or after June 1, 2024, in whole, at a redemption price equal to the principal amount plus accrued interest. The Note is also subject to a one-time partial redemption of the Note at any time on or after June 1, 2024 at a redemption price equal to the principal amount plus accrued interest.
- C. The Note will be fully registered as to principal and interest, and the Purchaser shall serve as the initial paying agent and registrar for the Note without charge to the Issuer, except for the reimbursement of any reasonable expenditures incurred by the Purchaser in the capacity of paying agent and registrar. The Note is only transferable to a subsidiary or affiliate of the Purchaser. The Issuer reserves the right to issue additional bonds, notes or other obligations, which, when issued, may be payable from and equally secured by a pledge of the Net Revenues of the Issuer's System and on all things on a parity with this Note.

- D. In regard to its purchase of the Note, the Purchaser acknowledges that no prospectus or other offering document has been prepared; however, the Issuer has furnished the Purchaser with all information necessary and requested by the Purchaser to permit the Purchaser to make an informed decision concerning its purchase of the Note, and the Purchaser has made such inspections and investigations as it has deemed necessary to determine the credit quality of the Note and to assess all risk factors associated with the purchase and ownership of the Note. The Purchaser hereby acknowledges and represents that it has a business relationship with the Issuer and that it is familiar with the financial condition of the Issuer and the ability of the Issuer to timely pay the principal of and interest on the Note. The Purchaser has been furnished with such financial information relating to the Issuer as it has requested for the purposes of making its assessment of the purchase of the Note. The Purchaser has had a reasonable opportunity to request and review such other information as it needs from the Issuer in order to enable it to make its purchase decision. The Purchaser is not relying on McCall, Parkhurst & Horton L.L.P., the Issuer's Bond Counsel, or Robert W. Baird & Co. Incorporated, the Issuer's Financial Advisor, as to the completeness or accuracy of any financial information provided to the Purchaser by the Issuer in connection with its determination to make the purchase of the Note.
- E. The Note purchased by the Purchaser is being purchased for the account of the Purchaser as evidence of a loan (and not on behalf of another), and the Purchaser has no intention of reselling such Note or dividing its interest therein, either currently or after the passage of a fixed or determinable period of time or upon the occurrence or nonoccurrence of any predetermined event or circumstance; however, the Purchaser reserves the right to transfer the Note to a subsidiary or affiliate of the Purchaser at any time.
- F. Delivery of the Note to the Purchaser (the "Closing") shall be made at the Purchaser on or about January 14, 2016, it being understood that the delivery date may be extended by mutual consent of the Purchaser and the Issuer.
- G. The Purchaser acknowledges that the Note will not be rated. In addition, the Purchaser acknowledges that the Note will not be listed on any securities exchange. The Purchaser understands that it may need to bear the risks of the purchase of the Note for an indefinite time.
- H. It is understood and agreed that the Purchaser is buying the Note in a private placement by the Issuer to the Purchaser. The Note is exempt from any federal securities registration requirements by virtue of Section 3(a)(2) of the Securities Act of 1933. The private placement of the Note is exempt from the provisions of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"). The Issuer has agreed with the Purchaser to file with the MSRB on its Electronic Municipal Market Access ("EMMA") system the Issuer's annual audited financials within 180 days after the Issuer's fiscal year-end as on-going disclosure for the benefit of the registered owner of the Note.

- I. This agreement shall be terminated by delivery of \$6,940,000 in principal amount of the Note to the Purchaser at the date of Closing, provided that the representations of the Purchaser in E. above and the covenant of the Issuer in H. above, shall survive the termination hereof.
- J. The Issuer will designate the Note as a "qualified tax-exempt obligation" within the meaning of section 265(b) of the Internal Revenue Code. In furtherance of that designation, in the Resolution, the Issuer will covenant to take such action which would assure or to refrain from such action which would adversely affect the treatment of the Note as a "qualified tax-exempt obligation."
- K. As a condition to the purchase of the Note, the Purchaser shall receive at the Closing an opinion of Bond Counsel in substantially the form attached hereto as Exhibit A. In addition, the Purchaser shall receive, at the Closing, (i) an opinion of the Attorney General of the State of Texas to the effect that the Note has been lawfully issued by the Issuer and is a valid and binding obligation of the Issuer under applicable laws of the State of Texas, (ii) the federal tax certificate and Form 8038-G of the Issuer with respect to the Note, and (iii) a certificate of the Issuer to the effect that no litigation, proceeding or tax challenge against the Issuer is pending or, to the best of our knowledge, threatened in any court or administrative body nor is there a basis for litigation which would (a) contest the right of the members or officials of the Issuer to hold and exercise their respective positions, (b) contest the due organization and valid existence of the Issuer, (c) contest the validity, due authorization and execution of the Note, the Resolution or the Paying Agent/Registrar Agreement, (d) attempt to limit, enjoin or otherwise restrict or prevent the Issuer from functioning and collecting revenues, including payments on the Note, pursuant to the Resolution, and other income or the collection of the revenues pledged or to be pledged to pay the principal of and interest on the Note, or the pledge thereof.

Respectfully submitted,

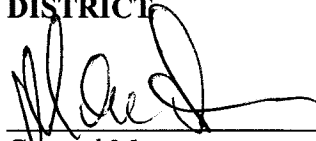
**BRANCH BANKING AND TRUST  
COMPANY**

By:   
Mary Parrish Coley, Vice President

**ACCEPTANCE**

ACCEPTED pursuant to the Resolution adopted by the Board of Directors of Brushy Creek Municipal Utility District this 10<sup>th</sup> day of December, 2015.

**BRUSHY CREEK MUNICIPAL UTILITY  
DISTRICT**



---

General Manager

## GENERAL AND NO-LITIGATION CERTIFICATE

**THE STATE OF TEXAS** §  
**COUNTY OF WILLIAMSON** §  
**BRUSHY CREEK MUNICIPAL UTILITY DISTRICT** §

We, the undersigned President and Secretary, respectively, of the Board of Directors of the District, hereby certify as follows:

### GENERAL

1. This certificate is executed for and on behalf of the District, for the benefit of the Attorney General of the State of Texas and for the benefit of the Purchaser in connection with the issuance of the Note. The words and terms used herein shall have the meanings whenever they are used given in Exhibit "A" attached hereto.

2. Any certificate signed by an official of the District delivered to the Purchaser or the Attorney General of the State of Texas shall be deemed a representation and warranty by the District as to the statements made therein. The Public Finance Division of the Office of the Attorney General of the State of Texas is hereby authorized to date this certificate as of the date of approval of the Note and is entitled to rely upon the accuracy of the information contained herein unless notified by telephone or fax to the contrary. The Comptroller of Public Accounts is further authorized to register the Note upon receipt of the Attorney General approval. After registration, the Note, opinions and registration papers shall be delivered to C.D. Polumbo at McCall, Parkhurst & Horton L.L.P.

3. A true and correct copy of the sealed bid for the Note submitted to and accepted by the Board of Directors of the District is attached hereto as Exhibit "B".

### MATTERS RELATING TO THE DISTRICT

4. We officially executed and signed the Note with our manual signatures or by causing facsimiles of our manual signatures to be imprinted or copied on the Note, and, if appropriate, we hereby adopt said facsimile signatures as our own, respectively, and declare that the facsimile signatures constitute our signatures the same as if we had manually signed the Note.

5. The Note is substantially in the form, and has been duly executed and signed in the manner prescribed in the Resolution.

6. At the time we so executed and signed the Note we were, and at the time of executing this certificate we are, the duly chosen, qualified and acting officers indicated therein, and authorized to execute the same.

7. No litigation of any nature has been filed or is now pending to restrain or enjoin the issuance or delivery of the Note, or which would affect the provision made for its payment or security,



or in any manner questioning the proceedings or authority concerning the issuance of the Note, and that so far as we know and believe no such litigation is threatened.

8. Neither the corporate existence nor boundaries of the District is being contested, no litigation has been filed or is now pending which would affect the authority of the officers of the District to issue, execute, sign, and deliver the Note, and no authority or proceedings for the issuance of the Note have been repealed, revoked or rescinded.

9. We have caused the official seal of the District to be impressed, or printed, or copied on the Note and said seal on the Note has been duly adopted as, and is hereby declared to be, the official seal of the District.

10. The District is a conservation and reclamation district operating and existing as a municipal utility district under the provisions of Article XVI, Section 59 of the Texas Constitution, Chapters 49 and 54, Texas Water Code, as amended.

11. The following individuals are presently the duly elected or appointed and qualified directors and officers of the District holding offices opposite their names as indicated below.

<b>Name</b>	<b>Office</b>	<b>Term of Office</b>
Rebecca Tullos	President	November 2018
Russ Shermer	Vice President	November 2016
Kim Filiatrault	Secretary	November 2018
Shean Dalton	Treasurer	November 2016
Donna B. Parker	Director	November 2016

12. Each member of the Board of Directors of the District has duly qualified as a member of the Board of Directors by executing the sworn statement (when required), by executing the bond required by law, and by taking the official oath of office prescribed by the Constitution for public officers, each such bond was duly approved by the Board of Directors of the District, and each such bond, sworn statement and oath are filed and retained in the District's records and with the Secretary of State. The officers and members of the District's Board of Directors have not changed since the issuance of the District's Sendero Springs and Cornerstone Defined Area Unlimited Tax Refunding Bonds, Series 2015 on June 1, 2015.

13. That none of the revenues or income of the District's System have been pledged or encumbered to the payment of any debt or obligation of the District or the System except as described on Exhibit "C."

14. The District is not in default in connection with any of the covenants, conditions or obligations contained in the resolutions authorizing the issuance of the outstanding obligations listed in Exhibit "C" and that the Interest and Sinking Fund and Reserve Fund, if any, for the outstanding obligations contain the amount now required to be on deposit therein.

15. A true and correct copy of the District's current water and wastewater rate charges are attached hereto as Exhibit "D."

16. A true, full and correct schedule of the income and expenses of the System for the past three years is attached hereto as Exhibit "E."

17. There is no outstanding System debt of the District. The debt service schedule for the Note is attached as Exhibit "F."

18. No incorporated city or town, or portion thereof, is included within the area of the District. The District lies within the extraterritorial jurisdiction of the City of Round Rock, and the District was in existence prior to being included within the City's extraterritorial jurisdiction. The District is not subject to any consent or other agreement with any such City governing the issuance of the Bonds.

19. A District Information Form and amendments thereto have been filed as required by Section 50.302, Texas Water Code. In addition, as of the date of this Certificate, all information required by law to be filed by the District with the Texas Commission on Environmental Quality (the "TCEQ") has been filed. Based upon our actual knowledge, the District is currently in compliance with all regulations of the TCEQ.

20. All meetings of the Board have been open to the public and notice of the time, place, and subject of each such meeting was given as required by Chapter 551, Government Code, as amended, and Chapter 49, Texas Water Code, as amended.

21. The District has not defaulted in the performance of any of the covenants or other conditions in the orders or resolutions authorizing any outstanding obligations.

22. The District has not limited the taxing powers granted to it by the Constitution and laws of the State of Texas, and no procedure for such action has been taken.

23. The District has not at any time entered into any contract of any nature with the United States or any branch or agency thereof.

24. No motion to overturn the actions of the TCEQ's executive director approving the issuance of the Note has been filed pursuant to TCEQ Rule 50.139. Additionally, the District has not been notified that the TCEQ or its general counsel has extended the period of time to file such a motion to overturn.

### **CLOSING MATTERS**

25. To our best knowledge and belief: (i) the representations and warranties of the District contained herein are true and correct in all material respects on and as of the date of the Closing as if made on the date of Closing; (ii) no litigation, proceeding or tax challenge against the District is pending or, to the best of our knowledge, threatened in any court or administrative body nor is there a basis for litigation which would (a) contest the right of the members or officials of the District to hold and exercise their respective positions, (b) contest the due organization and valid existence of the District, (c) contest the validity, due authorization and execution of the Note, the Resolution or the Paying Agent/Registrar Agreement, (d) attempt to limit, enjoin or otherwise restrict or prevent the District from functioning and

collecting revenues, including payments on the Note, pursuant to the Resolution, and other income or the collection of the revenues pledged or to be pledged to pay the principal of and interest on the Note, or the pledge thereof; (iii) all official action of the District relating to the Note, the Resolution and the Paying Agent/Registrar Agreement have been duly taken by the District, are in full force and effect and have not been modified, amended, supplemented or repealed; and (iv) there has not been any material adverse change in the financial condition of the District since September 30, 2014, the latest date as of which audited financial information is available.

SIGNED this the 14<sup>th</sup> day of JANUARY, 2016.

*Kristina Sproul*  
Secretary, Board of Directors

*Rebecca Jella*  
President, Board of Directors

### NOTARY ACKNOWLEDGMENT

**BEFORE ME**, on this day personally appeared the foregoing individuals, known to me to be the officers whose true and genuine signatures were subscribed to the foregoing instrument in my presence.

Given under my hand and seal of office this 10<sup>th</sup> day of Dec. 2015.

*Margie Anthes*  
Notary Public

(Notary Seal)



## **EXHIBIT A**

### **DEFINITIONS**

<i>Closing -</i>	January 14, 2016.
<i>District -</i>	Brushy Creek Municipal Utility District.
<i>Note -</i>	Brushy Creek Municipal Utility District Utility System Revenue Note, Series 2016.
<i>Paying Agent/Registrar Agreement -</i>	The Paying Agent/Registrar Agreement between the District and the Purchaser dated December 10, 2015.
<i>Pledged Revenues -</i>	As defined in the Resolution.
<i>Purchaser -</i>	Branch Banking and Trust Company.
<i>Resolution -</i>	The "Master Resolution Establishing the Brushy Creek Municipal Utility District Utility System Revenue Financing Program": as supplemented by the "First Supplemental Resolution to the Master Resolution Establishing the Brushy Creek Municipal Utility District Utility System Revenue Financing Program."
<i>System -</i>	As defined in the Resolution.

**EXHIBIT B**  
**WINNING BID FORM**

BID FORM

December 4, 2015

President and Board of Directors  
Brushy Creek Municipal Utility District  
c/o Robert W. Baird & Co. Incorporated  
Attn: Jan Bartholomew  
1331 Lamar Street, Suite 1360  
Houston, Texas 77010

Board Members:

We offer to purchase the Note for a cash price of \$ 6,940,000 (which represents 100 % of par value), less the fees and expenses of bank counsel and/or paying agent/registrars and other fees of \$ 3594, provided such Note bears interest at the following rate:

Maturity (June 1)	Principal Amount*	Interest Rate
2030(a)	\$6,940,000	<del>2.62</del> % 2.63%

- \* Preliminary, subject to change. The District reserves the right to modify the installment amounts to ensure level debt service upon receipt of the proposed interest rate.
- (a) Subject to optional redemption, at the option of the District, in whole or, from time to time, in part, on June 1, 2024, or on any date thereafter at a price equal to the principal amount thereof, plus accrued interest to the date fixed for redemption.

Our calculation (which is not a part of this bid) of the interest cost from the above is:

Total Interest Cost from Delivery Date .....	\$
Plus: Dollar Amount of Discount and Bank Counsel Expense/Paying Agent Expense (or Less: Dollar Amount of Premium) .....	\$ _____
NET INTEREST COST .....	\$ _____
NET EFFECTIVE INTEREST RATE .....	_____ %

Respectfully submitted,

BB&T


By:

Mary Patricia Coley  
Authorized Representative

**ACCEPTANCE CLAUSE**

The above and foregoing bid is hereby in all things accepted by Brushy Creek Municipal Utility District, Texas this 10<sup>th</sup> day of December, 2015.

ATTEST:

  
\_\_\_\_\_  
Secretary, Board of Directors

  
\_\_\_\_\_  
President, Board of Directors



5130 Parkway Plaza Boulevard  
Charlotte, North Carolina 28217  
(704) 954-1700  
Fax (704) 954-1799

December 8, 2015

Jan Bartholomew  
Robert W. Baird & Co.  
Houston, Texas

Via electronic mail: [JBartholomew@rwbaird.com](mailto:JBartholomew@rwbaird.com);

Re: Brushy Creek Municipal Utility District

Dear Jan:

Branch Banking and Trust Company ("BB&T") is pleased to offer this proposal for the financings requested by the Brushy Creek Municipal Utility District (the "District"):

- (1) **Project:** Waterworks and Sewer System Revenue Note, Series 2016
- (2) **Amount To Be Financed:** \$6,940,000
- (3) **Interest Rates, Financing Terms and Corresponding Payments:**

<b>Maturity</b>	<b>Rate</b>
June 1, 2030	2.63%

Principal payments shall be annually in arrears beginning June 1, 2016, as requested. Interest shall be paid semi-annually commencing June 1, 2016.

The interest rate stated above is valid for a closing not later than 45 days after today. Closing of the financing is contingent upon completing documentation acceptable to BB&T and its counsel.

Remuneration for our legal review and underwriting expenses for this financing transaction shall be \$2,500.00. Additionally, BB&T shall serve as paying agent and registrar for no additional fee. All applicable costs of counsel for the District and any other costs (including MAC fees) shall be the District's responsibility and separately payable by the District. Beginning June 1, 2024, the financing documents shall allow prepayment of the principal balance in whole at par.

The stated interest rate assumes that the City of Greenville, Texas expects to borrow less than \$10,000,000 calendar year 2016 and shall comply with IRS Code Sections 141, 148, and 149(e) Section 265(b)(3) as they may pertain to the Notes, and in accordance with Texas state statutes.

**(4) Financing Documents:**

It shall be the responsibility of the District to retain and compensate counsel to appropriately structure the Notes pursuant to applicable state and federal laws. Please note that BB&T will disperse Note proceeds via wire or check, allowing a maximum of four (4) disbursements per transaction. As a condition precedent to funding, BB&T shall require the District to provide documentation satisfactory to BB&T's counsel as follows:

1. Resolution/order/ordinance(s) adopted by the governing body of the District which contains all relevant provisions governing the financing (rate, term, amortization, security, designation of the Notes as qualified tax-exempt obligations (as applicable) and all other conditions, warranties and covenants as are usual and customary for transactions of the same general type including the covenant to provide BB&T audited financial statements within 270 days of the District's fiscal year end in each year that the Notes are outstanding);
2. Opinion of bond counsel as to the enforceability of the Notes and the tax exempt status of the interest on the Notes (as applicable);
3. An unqualified opinion of the Attorney General of the State, relating to the legality and validity of the Notes and approving the Notes as required by law and evidence reflecting the registration of the Notes by the Comptroller of Public Accounts of the State as required by law; and
4. A certificate or certificates, dated the date of closing, of appropriate officials of the District, to the effect that (i) the District is not a party to any litigation or other proceeding pending or, to its knowledge, threatened which, if decided adversely to the District, would have a materially adverse effect on the financial condition of the District and (ii) there has not been any materially adverse change in the financial condition of the District since September 30, 2014, the latest date as of which audited financial information is available.

**(5) Security:**

Principal of and interest on the Note are payable from the net revenues of the waterworks and sewer system. As additional security, the District shall maintain in the reserve fund an amount of money and investments equal to no less than the average annual debt service requirement of the Note (only if net revenues are less than 1.4 times the average annual debt service requirement).

\* \* \* \* \*

BB&T appreciates the opportunity to provide this financing proposal and requests to be notified within ten days of this proposal should BB&T be the successful proposer.

BB&T shall have the right to cancel this offer by notifying District of its election to do so (whether or not this offer has previously been accepted by District) if at any time prior to the closing there is a material adverse change in District's financial condition, if we discover adverse circumstances of which we are currently unaware, if we are unable to agree on acceptable

documentation with District or if there is a change in law (or proposed change in law) that changes the economic effect of this financing to BB&T. We reserve the right to negotiate and/or terminate our interest in this transaction should we be the successful proposer.

Please call me at (704) 954-1706 with your questions and comments. We look forward to hearing from you.

Sincerely,

**BB&T Governmental Finance**

A handwritten signature in black ink, appearing to read "Mary Parrish Coley". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Mary Parrish Coley  
Vice President

**EXHIBIT C**

Utility System Revenue Note, Series 2016	\$6,940,000
<b>TOTAL</b>	<b><u>\$6,940,000</u></b>

**EXHIBIT D**  
**WATER AND SEWER RATES**

**BRUSHY CREEK MUNICIPAL UTILITY DISTRICT**  
**ORDER 15-0910- 01**  
**ORDER ADOPTING**  
**DISTRICT FEES, RATES, PENALTIES, AND CHARGES**

**THE STATE OF TEXAS** §

**COUNTY OF WILLIAMSON** §

**WHEREAS**, Brushy Creek Municipal Utility District (District) is a duly created and existing political subdivision of the State of Texas operating in accordance with Chapters 49 and 54, Texas Water Code; and,

**WHEREAS**, Section 49.212 of the Texas Water Code authorizes a district to adopt and enforce all necessary charges, fees, or rentals, in addition to taxes, for providing or making available any district facility or service; and,

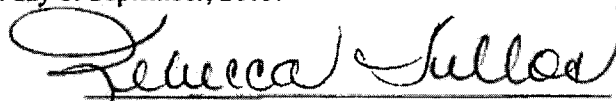
**WHEREAS**, Section 49.004 of the Texas Water Code authorizes a water district to set reasonable civil penalties for the breach of any rule of the district; and

**WHEREAS**, the Board of Directors of the District finds and determines that it is to the best interest of the District to amend its current schedule of rates, fees, and charges for the availability of certain District facilities and services, and penalties for the violation of certain District rules.

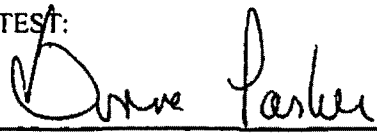
**NOW THEREFORE, BE IT ORDERED BY THE BOARD OF DIRECTORS OF BRUSHY CREEK MUNICIPAL UTILITY DISTRICT THAT:**

1. The facts and recitations found in the preamble of this Order are hereby found and declared to be true and correct, and are incorporated by reference herein and expressly made a part hereof, as if copied verbatim.
2. The revised Schedule of Rates, Fees, Charges and Penalties set forth on Exhibit "A" attached hereto is adopted for all purposes.
3. The revised rates and fees set forth on the schedule attached hereto shall be effective immediately upon adoption of this Order.
4. This Order shall supercede all prior Orders or Resolutions adopted by the Board of Directors with respect to those rates, fees, charges, and penalties referenced on Exhibits "A".
5. The President and Secretary of the Board are hereby authorized and directed to execute this Order. After this Order is executed, an original Order shall be filed in the permanent records of the District.

**PASSED AND APPROVED** this the 9th day of September, 2015.

  
\_\_\_\_\_  
President, Board of Directors

ATTEST:

  
\_\_\_\_\_  
Asst. Secretary, Board of Directors

(DISTRICT SEAL)

## **Exhibit "A"**

### **Brushy Creek MUD Schedule of Rates, Charges, Fees and Penalties**

#### **1) Water Rates-**

##### **a) In-District Water Rates:**

(1) Base Monthly Water Service Fee- \$14.00 per LUE

##### **(2) Volumetric Rates-**

(a) Peak Season Volumetric Rates (June-Sept) - \$2.75 per 1,000 gallons.

(b) Off Peak Season Volumetric Rates (Oct-May) - \$2.10 per 1,000 gallons.

##### **b) Out-of-District Water Rates:**

(1) Base Monthly Water Service Fee - \$37.42 per LUE.

##### **(2) Volumetric Rates-**

(a) Peak Season Volumetric Rates (June-Sept) = \$2.75 per 1,000 gallons.

(b) Off Peak Season Volumetric Rates (Oct-May) - \$2.10 per 1,000 gallons.

#### **2) Wastewater Rates-**

##### **a) In-District Wastewater Service Rates:**

(1) Base Monthly Wastewater Fee - \$6.00 per LUE.

(2) Volumetric Rate- \$2.70 per 1,000 gallons, prorated to the nearest 10 gallons, for consumption calculated to be the average monthly flows on or about December 13 of one year and on or about January 13, February 13 and March 13 of the succeeding year, using 7,000 gallons as the initial average for new customers until a history is established.

##### **b) Out-of-District Wastewater Service Rate:**

(1) Base Monthly Wastewater Fee - \$12.00 per LUE.

(2) Volumetric Rate - \$10.80 per 1,000 gallons, prorated to the nearest 10 gallons.

3) Regulatory Compliance Fee - \$1.50 per month, per water LUE, per in-district water customer.

4) Base Connect-Disconnect Fee - \$30.00.

5) Late Payment and Administrative Fee – 10% of total past due bill. Due dates will occur 21 days after the billing date each month.

#### **6) Meter Deposits-**

a) Single family base Meter Deposit - \$100.00 per LUE.

b) Commercial or irrigation Meter Deposit - \$200 per LUE.

c) Temporary Meter Deposit (fire hydrant) - \$1000.

- 7) Returned Check or Direct Draft Fee - \$30.00 per occurrence.
- 8) Service Commitment Fee - \$150.00
- 9) Plan Review Fee: \$2,250.00 plan review fee, excluding single family residences. (Includes up to 25 pages of plans. The fee for review of each additional page of plans shall be \$90 per additional page.)
- 10) System and Drainage Facility Inspection Fee (Applicable to inspection of facilities to be conveyed to the District)-

The developer shall be billed one (1) percent of the construction cost of such facility based on the contract price provided in the bid, paid in equal monthly payments based on the contract time, with payments automatically accelerated and due in full if unpaid prior to the request for approval of such facilities.

- 11) Bacteriological Sampling Fee - \$75.00 per sample.
- 12) Residential and commercial Plumbing Inspection Fee - \$65.00 per inspection.
- 13) Hot Water Heater installation Fee - \$50.00 per inspection
- 14) New Facility Plumbing Inspection Fee - Series of five inspections (rough-in, service lines, copper, top out and final). The fee for single family residences shall be \$325 for the five inspections. The fee for additional inspections, re-inspections, and any other inspections required to determine compliance with the Uniform Plumbing Code adopted by the Board of Directors shall be \$65.00 per inspection.
- 15) Building Permit Fee - \$50.00.

**NOTE: NO NEW BUILDING PERMITS SHALL BE ISSUED TO ANY BUILDER WHO OWES THE DISTRICT ANY OUTSTANDING FEE OR CHARGE ASSESSED BY THE DISTRICT.**

- 16) Security Device (Water) Replacement Fee - \$150.00 per occurrence.
- 17) Parks and Recreation Fee - \$801.30 per LUE. (Increases 3% each April.)
- 18) Unapproved Facilities Operations Charge - \$250.00 per occurrence.
- 19) In District Water System Connection Fee (Includes meter installation and inspection) - \$220.00 per LUE, or the cost of the meter and the meter box, whichever is greater.
- 20) Out-of-District Water System Connection Fee (Includes meter installation and inspection) - \$2089.00 per LUE
- 21) Wastewater System Connection Fee - \$60.00 per LUE
- 22) Water tap installation involving excavation of the water main shall be reviewed and performed by the District on a case by case basis at cost
- 23) Wastewater tap installation involving excavation of the wastewater main shall be reviewed and performed by the District on a case by case basis at cost.
- 24) Water Capital Recovery Fee - \$2095.00 per LUE.
- 25) Wastewater Capital Recovery Fee - \$1804.00 per LUE.
- 26) Sprinkler System Permit Fee - \$25.00.



**27) Erosion Control**

- a) Violation fee for failure to provide Erosion Control Plan: \$250.00 per day until the plan is filed.
- b) Initial violation fee for beginning construction without approved Erosion Control: \$500.00 plus \$500.00 per day fee until Erosion Control facilities are in place.
- c) Erosion Control Inspection Fee - initial inspection fee, no charge,
- d) Erosion Control Re-inspection Fee - \$50.00 per inspection
- e) Failure to repair or replace erosion control devices within 48 hours from notification, the Builder shall be fined an initial \$500.00 plus \$250.00 per day thereafter until corrected.

**28) Backflow Test- \$65.00**

**29) Water Softener Permit Fee - \$25.00**

**30) Swimming Pool with autofilling device Installation Permit Fee - \$50.00.**

**31) Swimming Pool with heater Installation Permit Fee - \$50.00**

**32) Charges for damage to District water or wastewater Facilities-**

The charge for damage to district water or wastewater facilities shall be the cost of parts, equipment, and district personnel. The equipment cost shall be \$125.00 per hour. Personnel cost shall be \$35.00 per hour, per employee.

**33) Fine for refuse receptacles and debris removal violations - \$500.00**

**34) Charges for Public Information-**

All charges for public information shall be determined in accordance with the Public Information Act and rules adopted by the office of the Texas Attorney General.

**35) Solid Waste Fees-**

- a) The District shall collect the following fees for solid waste collection and administration for Single Family Residences and Duplex Family Residences with water service at the same address:
  - i) \$21 for solid waste services ( 1 garbage cart and 1 recycling cart)
  - ii) \$5.00 for additional garbage or recycling cart

**CALCULATION OF LIVING UNIT EQUIVALENTS:**

For purposes of this Rate and Fee Schedule, the calculation of LUEs shall be determined as follows:

- I. Definition: A living unit equivalent (LUE is defined as the typical flow that would be produced by a single family residence (SFR) located in a typical subdivision. For water, this includes consumptive uses such as lawn watering and evaporative coolers. The wastewater system does not receive all of these flows, so the expected flows per LUE differ for water and wastewater. The number of LUE's for a project is constant even though the expected water and wastewater flows differ.

ONE LUE produces: 2.2 gallons per minute (GPM) in a Peak Hour of water flow  
 1.0 GPM in a Peak Day of water flow  
 0.33 GPM on an average basis year round  
 270 GPD average dry weather wastewater flow.

2. LUE Conversion Factors.

<b>RESIDENTIAL</b>	<b>NUMBER OF LUE'S</b>
Single family detached	1.0 per unit
Duplex	0.9 per unit
Triplex, Four-plex, and Multi-Family	0.7 per unit
Hotel-Motel (Rooms only)	0.5 per unit

<b>COMMERCIAL</b>	<b>NUMBER OF LUE'S</b>
Office	1 LUE/3,000 sq. ft. of floor space
Office Warehouse	1 LUE/4,000 sq. ft. of floor space
Retail: Shopping Center	1 LUE/1,660 sq. ft. of floor space
Restaurant or Cafeteria	1 LUE/200 sq. ft. of floor space
Hospital (Includes Cafeteria)	3 LUE/Bed
Rest Home (Includes Cafeteria)	1 LUE/Bed
Church Building (Worship Services Only)	1 LUE/70 Seats
School (Includes Gym and Cafeteria)	1 LUE/15 Students
Facilities not distinctly covered in one of the categories above.	Will be based preliminarily on estimates of peak hour, peak day, and average day usage. The preliminary LUE will be based on the calculation among these three parameters resulting in the highest calculation. This preliminary calculation may be adjusted either upward or downward based upon the first six months of truly representative water usage.

3. LUE equivalents for meters larger than 5/8-inch shall be determined in accordance with the following AWWA meter equivalent recommendations as follows:

Meter Type	Meter Size	Continuous Duty Maximum Rate (gpm)	Ratio to 5/8" Meter
			AWWA Standards C700, C701, C702, C703
Simple	5/8" x 3/4"	10	1.0
Simple	3/4"	15	1.5
Simple	1"	25	2.5
Simple	1 -1/2"	50	5.0
Simple	2"	80	8.0
Compound	2"	80	8.0
Turbine	2"	100	10.0
Compound	3"	160	16.0
Turbine	3"	240	24.0
Compound	4"	250	25.0
Turbine	4"	420	42.0
Compound	6"	500	50.0
Turbine	6"	920	92.0
Compound	8"	800	80
Turbine	8"	1600	160.0
Compound	10"	1150	115.0
Turbine	10"	2500	250.0
Turbine	12"	3300	330.0

Amended: 04-11-13  
Amended: 09-26-13  
Amended: 04-09-15  
Amended: 06-11-15

**EXHIBIT E**

**UTILITY SYSTEM REVENUES AND EXPENSES**

	<u>2015</u> <u>(unaudited)</u>	<u>2014</u>	<u>2013</u>	<u>2012</u>
<b>Revenues</b>	\$6,394,554	\$6,409,881	\$6,692,406	\$6,382,785
<b>Expenses</b>	<u>6,059,911</u>	<u>5,718,827</u>	<u>5,121,906</u>	<u>4,642,752</u>
<b>Net Income</b>	\$334,643	\$ 691,054	\$ 1,570,500	\$1,740,033

Utility System Fund Balance as of 9/30/14 is \$13,829,990.

**EXHIBIT F**

**UTILITY SYSTEM DEBT SERVICE SCHEDULE**

BOND DEBT SERVICE

Brushy Creek MUD Water & Sewer System  
 WW & S Sys Rev Note, Series 2016  
 FINAL NUMBERS

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
06/01/2016	335,000	2.630%	69,459.76	404,459.76	
09/30/2016					404,459.76
12/01/2016			86,855.75	86,855.75	
06/01/2017	395,000	2.630%	86,855.75	481,855.75	
09/30/2017					568,711.50
12/01/2017			81,661.50	81,661.50	
06/01/2018	405,000	2.630%	81,661.50	486,661.50	
09/30/2018					568,323.00
12/01/2018			76,335.75	76,335.75	
06/01/2019	420,000	2.630%	76,335.75	496,335.75	
09/30/2019					572,671.50
12/01/2019			70,812.75	70,812.75	
06/01/2020	430,000	2.630%	70,812.75	500,812.75	
09/30/2020					571,625.50
12/01/2020			65,158.25	65,158.25	
06/01/2021	440,000	2.630%	65,158.25	505,158.25	
09/30/2021					570,316.50
12/01/2021			59,372.25	59,372.25	
06/01/2022	450,000	2.630%	59,372.25	509,372.25	
09/30/2022					568,744.50
12/01/2022			53,454.75	53,454.75	
06/01/2023	465,000	2.630%	53,454.75	518,454.75	
09/30/2023					571,909.50
12/01/2023			47,340.00	47,340.00	
06/01/2024	475,000	2.630%	47,340.00	522,340.00	
09/30/2024					569,680.00
12/01/2024			41,093.75	41,093.75	
06/01/2025	490,000	2.630%	41,093.75	531,093.75	
09/30/2025					572,187.50
12/01/2025			34,650.25	34,650.25	
06/01/2026	500,000	2.630%	34,650.25	534,650.25	
09/30/2026					569,300.50
12/01/2026			28,075.25	28,075.25	
06/01/2027	515,000	2.630%	28,075.25	543,075.25	
09/30/2027					571,150.50
12/01/2027			21,303.00	21,303.00	
06/01/2028	525,000	2.630%	21,303.00	546,303.00	
09/30/2028					567,606.00
12/01/2028			14,399.25	14,399.25	
06/01/2029	540,000	2.630%	14,399.25	554,399.25	
09/30/2029					568,798.50
12/01/2029			7,298.25	7,298.25	
06/01/2030	555,000	2.630%	7,298.25	562,298.25	
09/30/2030					569,596.50
	6,940,000		1,445,081.26	8,385,081.26	8,385,081.26

## FEDERAL TAX CERTIFICATE

### 1. In General.

1.1. The undersigned is the General Manager of the Brushy Creek Municipal Utility District (the "Issuer").

1.2. This Certificate is executed for the purpose of establishing the reasonable expectations of the Issuer as to future events regarding the Issuer's Utility System Revenue Note, Series 2016 (the "Note"). The Note is issued pursuant to a Master Resolution and a First Supplemental Resolution to the Master Resolution, each duly adopted by the Issuer (collectively, the "Resolution"). The Resolution is incorporated herein by reference.

1.3. To the best of the undersigned's knowledge, information and belief, the expectations contained in this Federal Tax Certificate are reasonable.

1.4. The undersigned is an officer of the Issuer delegated with the responsibility of issuing and delivering the Note.

1.5. The undersigned is not aware of any facts or circumstances that would cause him to question the accuracy of the representations made by Branch Banking and Trust Company (the "Purchaser") in the Issue Price Certificate attached hereto as Exhibit "D", and by Robert W. Baird & Co. Incorporated (the "Financial Advisor") in Subsection 5.3 of this Certificate and with respect to the Schedules attached hereto as Exhibit "E".

### 2. The Purpose of the Note and Useful Lives of Projects.

2.1. The Note is being issued pursuant to the Resolution (a) to provide for the payment of costs of issuing the Note, and (b) to acquire, purchase, construct, improve, renovate, enlarge or equip the Issuer's Community Center (the "Projects").

2.2. The Issuer expects that the aggregate useful lives of the Projects exceed 28 years from the later of the date the Projects are placed in service or the date on which the Note is issued.

2.3. All earnings, such as interest and dividends, received from the investment of the proceeds of the Note during the period of acquisition and construction of the Projects and not used to pay interest on the Note, will be used to pay the costs of the Projects, unless required to be rebated and paid to the United States in accordance with section 148(f) of the Internal Revenue Code of 1986 (the "Code"). The proceeds of the Note, together with any investment earnings thereon, are expected not to exceed the amount necessary for the governmental purpose of the Note. The Issuer expects that no disposition proceeds will arise in connection with the Projects or the Note.

### 3. Expenditure of Bond Proceeds and Use of Projects.

3.1. The Issuer will incur, within six months after the date of issue of the Note, a binding obligation to commence the Projects, either by entering into contracts for the construction of the Projects or by entering into contracts for architectural or engineering services for such Projects, or contracts for the development, purchase of construction materials, or purchase of equipment, for the Projects, with the amount to be paid under such contracts to be in excess of five percent of the proceeds which are estimated to be used for the cost of the Projects.

3.2. After entering into binding obligations, work on such Projects will proceed promptly with due diligence to completion.

3.3. All original proceeds derived from the sale of the Note to be applied to the Projects and all investment earnings thereon (other than any amounts required to be rebated to the United States pursuant to section 148(f) of the Code) will be expended for the Projects no later than a date which is three years after the date of issue of the Note.

3.4. The Resolution provides that allocations of proceeds to expenditures for the Projects are expected not to be later than 18 months after the later of the date of the expenditure or the date that the Projects are placed in service, but, in any event, not longer than 60 days after the earlier of five years of the date hereof or the date the Note is retired.

3.5. Only Project costs paid or incurred by the Issuer on or after 60 days prior to the date the Issuer approved the funding of the Project (the "60-day period") through its declaration of official intent ("Qualified Costs") will be paid or reimbursed with Bond proceeds. For this purpose Qualified Costs also include preliminary expenditures, incurred prior to the 60-day period before the approval of the Issuer through its declaration of official intent, up to an amount not in excess of 20 percent of the aggregate amount of the Note. No Qualified Cost represents the cost of property or land acquired from a related party.

3.6. The Issuer will not invest the proceeds prior to such expenditure in any guaranteed investment contract or other non-purpose investment with a substantially guaranteed yield for a period equal to or greater than four years.

3.7. Other than members of the general public, the Issuer expects that throughout the lesser of the term of the Note, or the useful lives of the Projects, the only user of the Projects will be the Issuer or the Issuer's employees and agents. The Issuer will be the manager of the Projects. In no event will the proceeds of the Note or facilities financed therewith be used for private business use in an amount greater than \$15 million. The Issuer does not expect to enter into long-term sales of output from the Projects and sales of output will be made on the basis of generally-applicable and uniformly applied rates. The Issuer may apply different rates for different classes of customers, including volume purchasers, which are reasonable and customary.

3.8. Except as stated below, the Issuer expects not to sell or otherwise dispose of property constituting the Projects prior to the earlier of the end of such property's useful life or the final maturity of the Note. The Resolution provides that the Issuer will not sell or otherwise dispose of the Projects unless the Issuer receives an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Note.

3.9. For purposes of Subsection 3.8 hereof, the Issuer has not included the portion of the Projects comprised of personal property that is disposed in the ordinary course at a price that is expected to be less than 25 percent of the original purchase price. The Issuer, upon any disposition of such property, will transfer the receipts from the disposition of such property to the general operating fund and expend such receipts within six months for other governmental programs.

#### 4. Interest and Sinking Account.

4.1. A separate and special Interest and Sinking Account has been created and established, other than as described herein, solely to pay the principal of and interest on the Note (the "Bona Fide Debt Service Portion"). The Bona Fide Debt Service Portion constitutes a fund that is used primarily to achieve a proper



matching of revenues and debt service within each bond year. Such portion will be completely depleted at least once each year except for an amount not in excess of the greater of (a) one-twelfth of the debt service on the Note for the previous year, or (b) the previous year's earnings on such portion of the Interest and Sinking Account. Amounts deposited in the Interest and Sinking Account constituting the Bona Fide Debt Service Portion will be spent within a thirteen-month period beginning on the date of deposit, and any amount received from the investment of money held in the Interest and Sinking Account will be spent within a one-year period beginning on the date of receipt.

4.2. Any money deposited in the Interest and Sinking Account and any amounts received from the investment thereof that accumulate and remain on hand therein after thirteen months from the date of deposit of any such money or one year after the receipt of any such amounts from the investment thereof shall constitute a separate portion of the Interest and Sinking Account. The yield on any investments allocable to the portion of the Interest and Sinking Account exceeding the sum of (a) the Bona Fide Debt Service Portion and (b) an amount equal to the lesser of five percent of the sale and investment proceeds of the Note or \$100,000 will be restricted to a yield that does not exceed the yield on the Note.

5. Reserve Account.

5.1. Funds on deposit in the Reserve Account created by the Resolution are held in trust for the benefit of the holders of the Note. If on any interest payment or maturity date, the Interest and Sinking Account does not contain an amount sufficient to make debt service payments on the Note, the Issuer is required to transfer money from the Reserve Account to the Interest and Sinking Account in an amount sufficient to make such payments.

5.2. The present value of the investments deposited to the Reserve Account and allocable to the Note that will be invested at a yield higher than the yield on the Note will not, as of any date, exceed an aggregate amount which equals the lesser of (a) 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Note, (b) 1.25 of the average annual debt service on the Note, or (c) maximum annual debt service on the Note.

5.3. Based on the recommendation of the Financial Advisor to the Issuer, the amount deposited to the Reserve Account, if any, does not exceed that amount which is reasonably prudent to be maintained to secure the timely payment of debt service in the event of periodic fluctuations in revenues of the Issuer. No amounts will be deposited in the Reserve Account constituting proceeds received from the sale of the Note.

6. System Revenue Fund.

6.1. The Resolution creates a System Revenue Fund into which certain revenues of the Issuer are deposited. Amounts on deposit in the System Revenue Fund are transferred and used in the manner required by the Resolution.

6.2. Other than moneys in the System Revenue Fund that are transferred to the Interest and Sinking Account, the moneys in the System Revenue Fund are reasonably expected not to be used to pay the principal of and interest on the Note. There will be no assurance that such moneys will be available to meet debt service if the Issuer encounters financial difficulty. Amounts in the System Revenue Fund will be invested without yield restriction.

7. Yield.

7.1. The issue price of the Notes included in the Form 8038-G, is based on the Issue Price Certificate attached hereto.

7.2. The Issuer has not entered into any qualified guarantee or qualified hedge with respect to the Note. The yield on the Note will not be affected by subsequent unexpected events, except to the extent provided in section 1.148-4(h)(3) of the Treasury Regulations when and if the Issuer enters into a qualified hedge or into any transaction transferring, waiving or modifying any right that is part of the terms of any Bond. The Issuer will consult with nationally recognized bond counsel prior to entering into any of the foregoing transactions.

8. Invested Sinking Fund Proceeds, Replacement Proceeds.

8.1. The Issuer has, in addition to the moneys received from the sale of the Note, certain other moneys that are invested in various funds which are pledged for various purposes. These other funds are not available to accomplish the purposes described in Section 2 of this Certificate.

8.2. Other than the Interest and Sinking Account and the Reserve Account, there are, and will be, no other funds or accounts established, or to be established, by or on behalf of the Issuer (a) which are reasonably expected to be used, or to generate earnings to be used, to pay debt service on the Note, or (b) which are reserved or pledged as collateral for payment of debt service on the Note and for which there is reasonable assurance that amounts therein will be available to pay such debt service if the Issuer encounters financial difficulties. Accordingly, there are no other amounts constituting "gross proceeds" of the Note, within the meaning of section 148 of the Code.

9. Other Obligations.

9.1. There are no other obligations of the Issuer that (a) are sold at substantially the same time as the Note, i.e., within 15 days of the date of sale of the Note, (b) are sold pursuant to a common plan of financing with the Note, and (c) will be payable from the same source of funds as the Note.

9.2. The Issuer (including any of its related entities) has not issued nor does it expect to issue any other tax-exempt obligations during the current calendar year, including certain lease purchase agreements, in an amount which when aggregated with the Note would exceed \$10,000,000, within the meaning of section 265(b) of the Code.

10. Federal Tax Audit Responsibilities.

The Issuer acknowledges that in the event of an examination by the Internal Revenue Service (the "Service") to determine compliance of the Note with the provisions of the Code as they relate to tax-exempt obligations, the Issuer will respond, and will direct its agents and assigns to respond, in a commercially reasonable manner to any inquiries from the Service in connection with such an examination. The Issuer understands and agrees that the examination may be subject to public disclosure under applicable Texas law. The Issuer acknowledges that this Certificate, including any attachments, does not constitute an opinion of Bond Counsel as to the proper federal tax or accounting treatment of any specific transaction.

11. Record Retention and Private Business Use.

The Issuer has covenanted in the Resolution that it will comply with the requirements of the Code relating to the exclusion of the interest on the Note under section 103 of the Code. The Service has determined that certain materials, records and information should be retained by the issuers of tax-exempt obligations for the purpose of enabling the Service to confirm the exclusion of the interest on such obligations under section 103 of the Code. **ACCORDINGLY, THE ISSUER SHALL TAKE STEPS TO ENSURE THAT ALL MATERIALS, RECORDS AND INFORMATION NECESSARY TO CONFIRM THE EXCLUSION OF THE INTEREST ON THE NOTE UNDER SECTION 103 OF THE CODE ARE RETAINED FOR THE PERIOD BEGINNING ON THE ISSUE DATE OF THE NOTE AND ENDING THREE YEARS AFTER THE DATE THE NOTE IS RETIRED.** The Issuer acknowledges receipt of the letters attached hereto as Exhibit "B" which discusses limitations related to private business use and Exhibit "C" which, in part, discusses specific guidance by the Service with respect to the retention of records relating to tax-exempt bond transactions.


12. Rebate to United States.

The Issuer has covenanted in the Resolution that it will comply with the requirements of the Code, including section 148(f) of the Code, relating to the required rebate to the United States. Specifically, the Issuer will take steps to ensure that all earnings on gross proceeds of the Note in excess of the yield on the Note required to be rebated to the United States will be timely paid to the United States. The Issuer acknowledges receipt of the memorandum attached hereto as Exhibit "A" which discusses regulations promulgated pursuant to section 148(f) of the Code.

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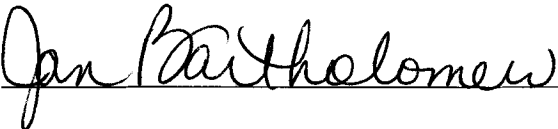
DATED as of January 14, 2016.

BRUSHY CREEK MUNICIPAL UTILITY DISTRICT

By:  \_\_\_\_\_  
General Manager

The undersigned represents that, to the best of the undersigned's knowledge, information and belief, the representations contained in Subsection 5.3 of this Federal Tax Certificate and the Schedules attached hereto as Exhibit "E" are, as of January 14, 2016, accurate and complete. We understand that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in this Federal Tax Certificate and by McCall, Parkhurst & Horton L.L.P. (i) in connection with rendering its opinion to the Issuer that interest on the Note is excludable from gross income thereof for income tax purposes, and (ii) for purposes of completing the IRS Form 8038-G. The undersigned is certifying only as to facts in existence on the date hereof. Nothing herein represents the undersigned's interpretation of any laws or the application of any laws to these facts.

ROBERT W. BAIRD & CO. INCORPORATED

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

Name: Jan Bartholomew

Title: Managing Director

## Exhibit "A"

LAW OFFICES

### **McCALL, PARKHURST & HORTON L.L.P.**

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January 1, 2006

### **ARBITRAGE REBATE REGULATIONS**<sup>©</sup>

The arbitrage rebate requirements set forth in section 148(f) of the Internal Revenue Code of 1986 (the "Code") generally provide that in order for interest on any issue of bonds<sup>1</sup> to be excluded from gross income (i.e., tax-exempt) the issuer must rebate to the United States the sum of, (1) the excess of the amount earned on all "nonpurpose investments" acquired with "gross proceeds" of the issue over the amount which would have been earned if such investments had been invested at a yield equal to the yield on the issue, and (2) the earnings on such excess earnings.

On June 18, 1993, the U.S. Treasury Department promulgated regulations relating to the computation of arbitrage rebate and the rebate exceptions. These regulations, which replace the previously-published regulations promulgated on May 15, 1989, and on May 18, 1992, are effective for bonds issued after June 30, 1993. This memorandum was prepared by McCall, Parkhurst & Horton L.L.P. and provides a general discussion of these arbitrage rebate regulations. This memorandum does not otherwise discuss the general arbitrage regulations, other than as they may incidentally relate to rebate. This memorandum also does not attempt to provide an exhaustive discussion of the arbitrage rebate regulations and should not be considered advice with respect to the arbitrage rebate requirements as applied to any individual or governmental unit or any specific transaction. Any tax advice contained in this memorandum is of a general nature and is not intended to be used, and should not be used, by any person to avoid penalties under the Code.

McCall, Parkhurst & Horton L.L.P. remains available to provide legal advice to issuers with respect to the provisions of these tax regulations but recommends that issuers seek competent financial and accounting assistance in calculating the amount of such issuer's rebate liability under section 148(f) of the Code and in making elections to apply the rebate exceptions.

#### **Effective Dates**

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<sup>1</sup> In this memorandum the word "bond" is defined to include any bond, note, certificate, financing lease or other obligation of an issuer.

The regulations promulgated on June 18, 1993, generally apply to bonds delivered after June 30, 1993, although they do permit an issuer to elect to apply the rules to bonds issued prior to that date. The temporary regulations adopted by the U.S. Treasury Department in 1989 and 1992 incorporated the same effective dates which generally apply for purposes of section 148(f) of the Code. As such, the previous versions of the rebate regulations generally applied to bonds issued between August 1986 and June 30, 1993 (or, with an election, to bonds issued prior to August 15, 1993). The statutory provisions of section 148(f) of the Code, other than the exception for construction issues, apply to all bonds issued after August 15, 1986, (for private activity bonds) and August 31, 1986, (for governmental public purpose bonds). The statutory exception to rebate applicable for construction issues generally applies if such issue is delivered after December 19, 1989.

The regulations provide numerous transitional rules for bonds sold prior to July 1, 1993. Moreover, since, under prior law, rules were previously published with respect to industrial development bonds and mortgage revenue bonds, the transitional rules contained in these regulations permit an issuer to elect to apply certain of these rules for computing rebate on pre-1986 bonds. The regulations provide for numerous elections which would permit an issuer to apply the rules (other than 18-month spending exception) to bonds which were issued prior to July 1, 1993 and remain outstanding on June 30, 1993. Due to the complexity of the regulations, it is impossible to discuss in this memorandum all circumstances for which specific elections are provided. If an issuer prefers to use these final version of rebate regulations in lieu of the computational method stated under prior law (e.g., due to prior redemption) or the regulations, please contact McCall, Parkhurst & Horton L.L.P. for advice as to the availability of such options.

### **Future Value Computation Method**

The regulations employ an actuarial method for computing the rebate amount based on the future value of the investment receipts (i.e., earnings) and payments. The rebate method employs a two-step computation to determine the amount of the rebate payment. First, the issuer determines the bond yield. Second, the issuer determines the arbitrage rebate amount. The regulations require that the computations be made at the end of each five-year period and upon final maturity of the issue (the "computation dates"). **THE FINAL MATURITY DATE WILL ACCELERATE IN CIRCUMSTANCES IN WHICH THE BONDS ARE OPTIONALLY REDEEMED PRIOR TO MATURITY. AS SUCH, IF BONDS ARE REFUNDED OR OTHERWISE REDEEMED, THE REBATE MAY BE DUE EARLIER THAN INITIALLY PROJECTED.** In order to accommodate accurate record-keeping and to assure that sufficient amounts will be available for the payment of arbitrage rebate liability, however, we recommend that the computations be performed at least annually. Please refer to other materials provided by McCall, Parkhurst & Horton L.L.P. relating to federal tax rules regarding record retention.

Under the future value method, the amount of rebate is determined by compounding the aggregate earnings on all the investments from the date of receipt by the issuer to the computation date. Similarly, a payment for an investment is future valued from the date that the payment is made to the computation date. The receipts and payments are future valued at a discount rate equal to the yield on the bonds. The rebatable arbitrage, as of any computation date, is equal to the excess of the (1) future value of all receipts from investments (i.e., earnings), over (2) the future value of all payments.

The following example is provided in the regulations to illustrate how arbitrage rebate is computed under the future value method for a fixed-yield bond:

"On January 1, 1994, City A issues a fixed yield issue and invests all the sale proceeds of the issue (\$49 million). There are no other gross proceeds. The issue has a yield of 7.0000 percent per year compounded semiannually (computed on a 30 day month/360 day year basis). City A receives amounts from the investment and immediately expends them for the governmental purpose of the issue as follows:

<u>Date</u>	<u>Amount</u>
2/1/1994	\$ 3,000,000
4/1/1994	5,000,000
6/1/1994	14,000,000
9/1/1994	20,000,000
7/1/1995	10,000,000

City A selects a bond year ending on January 1, and thus the first required computation date is January 1, 1999. The rebate amount as of this date is computed by determining the future value of the receipts and the payments for the investment. The compounding interval is each 6-month (or shorter) period and the 30 day month/360 day year basis is used because these conventions were used to compute yield on the issue. The future value of these amounts, plus the computation credit, as of January 1, 1999, is:

<u>Date</u>	<u>Receipts (Payments)</u>	<u>FY (7.0000 percent)</u>
01/1/1994	(\$49,000,000)	(\$69,119,339)
02/1/1994	3,000,000	4,207,602
04/1/1994	5,000,000	6,932,715
06/1/1994	14,000,000	19,190,277
09/1/1994	20,000,000	26,947,162
01/1/1995	(1,000)	(1,317)
07/1/1995	10,000,000	12,722,793
01/1/1996	(1,000)	<u>(1,229)</u>
Rebate amount (01/01/1999)		<u><u>\$878,664"</u></u>

### **General Method for Computing Yield on Bonds**

In general, the term "yield," with respect to a bond, means the discount rate that when used in computing the present value of all unconditionally due payments of principal and interest and all of the payments for a qualified guarantee produces an amount equal to the issue price of the bond. The term "issue price" has the same meaning as provided in sections 1273 and 1274 of the Code. That is, if bonds are publicly offered (i.e., sold by the issuer to a bond house, broker or similar person acting in the capacity of underwriter or wholesaler), the issue price of each bond is determined on the basis of the initial offering price to the public (not



to the aforementioned intermediaries) at which price a substantial amount of such bond was sold to the public (not to the aforementioned intermediaries). The "issue price" is separately determined for each bond (i.e., maturity) comprising an issue.

The regulations also provide varying periods for computing yield on the bonds depending on the method by which the interest payment is determined. Thus, for example, yield on an issue of bonds sold with variable interest rates (i.e., interest rates which are reset periodically based on changes in market) is computed separately for each annual period ending on the first anniversary of the delivery date that the issue is outstanding. In effect, yield on a variable yield issue is determined on each computation date by "looking back" at the interest payments for such period. The regulations, however, permit an issuer of a variable-yield issue to elect to compute the yield for annual periods ending on any date in order to permit a matching of such yield to the expenditure of the proceeds. Any such election must be made in writing, is irrevocable, and must be made no later than the earlier of (1) the fifth anniversary date, or (2) the final maturity date.

Yield on a fixed interest rate issue (i.e., an issue of bonds the interest rate on which is determined as of the date of the issue) is computed over the entire term of the issue. Issuers of fixed-yield issues generally use the yield computed as of the date of issue for all rebate computations. Such yield on fixed-yield issues generally is recomputed only if (1) the issue is sold at a substantial premium, may be retired within five years of the date of delivery, and such date is earlier than its scheduled maturity date, or (2) the issue is a stepped-coupon bond. In such cases, the regulations require the issuer to recompute the yield on such issues by taking into account the early retirement value of the bonds. Similarly, recomputation may occur in circumstances in which the issuer or bondholder modify or waive certain terms of, or rights with respect to, the issue or in sophisticated hedging transactions. **IN SUCH CIRCUMSTANCES, ISSUERS ARE ADVISED TO CONSULT McCALL, PARKHURST & HORTON L.L.P. TO ADDRESS THE FEDERAL INCOME TAX CONSEQUENCES OF THESE TRANSACTIONS.**

For purposes of determining the principal or redemption payments on a bond, different rules are used for fixed-rate and variable-rate bonds. The payment is computed separately on each maturity of bonds rather than on the issue as a whole. In certain circumstances, the yield on the bond is determined by assuming that principal on the bond is paid as scheduled and that the bond is retired on the final maturity date for the stated retirement price. For bonds subject to early redemption or stepped-coupon bonds, described above, or for bonds subject to mandatory early redemption, the yield is computed assuming the bonds are paid on the early redemption date for an amount equal to their value.

Premiums paid to guarantee the payment of debt service on bonds are taken into account in computing the yield on the bond. Payments for guarantees are taken into account by treating such premiums as the payment of interest on the bonds. This treatment, in effect, raises the yield on the bond, thereby permitting the issuer to recover such fee with excess earnings.

The guarantee must be an unconditional obligation of the guarantor enforceable by the bondholder for the payment of principal or interest on the bond or the tender price of a tender bond. The guarantee may be in the form of an insurance policy, surety bond, irrevocable letter or line of credit, or standby purchase agreement. Importantly, the guarantor must be legally entitled to full reimbursement for any payment made on the guarantee either immediately or

upon commercially reasonable repayment terms. The guarantor may not be a co-obligor of the bonds or a user of more than 10 percent of the proceeds of the bonds.

Payments for the guarantee may not exceed a reasonable charge for the transfer of credit risk. This reasonable charge requirement is not satisfied unless it is reasonably expected that the guarantee will result in a net present value savings on the bond (i.e., the premium does not exceed the present value of the interest savings resulting by virtue of the guarantee). If the guarantee is entered into after June 14, 1989, then any fees charged for the nonguarantee services must be separately stated or the guarantee fee is not recoverable.

The regulations also treat certain "hedging" transactions in a manner similar to qualified guarantees. "Hedges" are contracts, e.g., interest rate swaps, futures contracts or options, which are intended to reduce the risk of interest rate fluctuations. Hedges and other financial derivatives are sophisticated and ever-evolving financial products with which a memorandum, such as this, can not readily deal. **IN SUCH CIRCUMSTANCES, ISSUERS ARE ADVISED TO CONSULT McCALL, PARKHURST & HORTON L.L.P. TO ADDRESS THE FEDERAL INCOME TAX CONSEQUENCES OF THESE TRANSACTIONS.**

#### **Earnings on Nonpurpose Investments**

The arbitrage rebate provisions apply only to the receipts from the investment of "gross proceeds" in "nonpurpose investments." For this purpose, nonpurpose investments are stock, bonds or other obligations acquired with the gross proceeds of the bonds for the period prior to the expenditure of the gross proceeds for the ultimate purpose. For example, investments deposited to construction funds, reserve funds (including surplus taxes or revenues deposited to sinking funds) or other similar funds are nonpurpose investments. Such investments include only those which are acquired with "gross proceeds." For this purpose, the term "gross proceeds" includes original proceeds received from the sale of the bonds, investment earnings from the investment of such original proceeds, amounts pledged to the payment of debt service on the bonds or amounts actually used to pay debt service on the bonds. The regulations do not provide a sufficient amount of guidance to include an exhaustive list of "gross proceeds" for this purpose; however, it can be assumed that "gross proceeds" represent all amounts received from the sale of bonds, amounts earned as a result of such sale or amounts (including taxes and revenues) which are used to pay, or secure the payment of, debt service for the bonds. The total amount of "gross proceeds" allocated to a bond generally can not exceed the outstanding principal amount of the bonds.

The regulations provide that an investment is allocated to an issue for the period (1) that begins on the date gross proceeds are used to acquire the investment, and (2) that ends on the date such investment ceases to be allocated to the issue. In general, proceeds are allocated to a bond issue until expended for the ultimate purpose for which the bond was issued or for which such proceeds are received (e.g., construction of a bond-financed facility or payment of debt service on the bonds). Deposit of gross proceeds to the general fund of the issuer (or other fund in which they are commingled with revenues or taxes) does not eliminate or ameliorate the Issuer's obligation to compute rebate in most cases. As such, proceeds commingled with the general revenues of the issuer are not "freed-up" from the rebate obligation. An exception to this commingling limitation for bonds, other than private activity bonds, permits "investment earnings" (but not sale proceeds or other types of gross proceeds) to be considered spent when deposited to a commingled fund if those amounts are reasonably

expected to be spent within six months. Other than for these amounts, issuers may consider segregating investments in order to more easily compute the amount of such arbitrage earnings by not having to allocate investments.

Special rules are provided for purposes of advance refundings. These rules are too complex to discuss in this memorandum. Essentially, the rules relating to refundings, however, do not require that amounts deposited to the escrow fund to defease the prior obligations of the issuer be subject to arbitrage rebate to the extent that the investments deposited to the escrow fund do not have a yield in excess of the yield on the bonds. Any loss resulting from the investment of proceeds in an escrow fund below the yield on the bonds, however, may be recovered by combining those investments with investments deposited to other funds, e.g., reserve or construction funds.

The arbitrage regulations also provide an exception to the arbitrage limitations for the investment of bond proceeds in tax-exempt obligations. As such, investment of proceeds in tax exempt bonds eliminates the Issuer's rebate obligation. A caveat; this exception does not apply to gross proceeds derived allocable to a bond, which is not subject to the alternative minimum tax under section 57(a)(5) of the Code, if invested in tax-exempt bonds subject to the alternative minimum tax, i.e., "private activity bonds." Such "AMT-subject" investment is treated as a taxable investment and must comply with the arbitrage rules, including rebate. Earnings from these tax-exempt investments are subject to arbitrage restrictions, including rebate.

Similarly, the investment of gross proceeds in certain tax-exempt mutual funds are treated as a direct investment in the tax-exempt obligations deposited in such fund. While issuers may invest in such funds for purposes of avoiding arbitrage rebate, they should be aware that if "private activity bonds" are included in the fund then a portion of the earnings will be subject to arbitrage rebate. Issuers should be prudent in assuring that the funds do not contain private activity bonds.

The arbitrage regulations provide a number of instances in which earnings will be imputed to nonpurpose investments. Receipts generally will be imputed to investments that do not bear interest at an arm's-length (i.e., market) interest rate. As such, the regulations adopt a "market price" rule. In effect, this rule prohibits an issuer from investing bond proceeds in investments at a price which is higher than the market price of comparable obligations, in order to reduce the yield. Special rules are included for determining the market price for investment contracts, certificates of deposit and certain U.S. Treasury obligations. For example, to establish the fair market value of investment contracts a bidding process between three qualified bidders must be used. The fair market value of certificates of deposit which bear a fixed interest rate and are subject to an early withdrawal penalty is its purchase price if that price is not less than the yield on comparable U.S. Treasury obligations and is the highest yield available from the institution. In any event, a basic "common sense" rule-of-thumb that can be used to determine whether a fair market value has been paid is to ask whether the general funds of the issuer would be invested at the same yield or at a higher yield. An exception to this market price rule is available for United States Treasury Obligations - State or Local Government Series in which case the purchase price is always the market price.

### **Reimbursement and Working Capital**

The regulations provide rules for purposes of determining whether gross proceeds are used for working capital and, if so, at what times those proceeds are considered spent. In general, working capital financings are subject to many of the same rules that have existed since the mid-1970s. For example, the regulations generally continue the 13-month temporary period. By adopting a "proceeds-spent-last" rule, the regulations also generally require that an issuer actually incur a deficit (i.e., expenditures must exceed receipts) for the computation period (which generally corresponds to the issuer's fiscal year). Also, the regulations continue to permit an operating reserve, but unlike prior regulations the amount of such reserve may not exceed five percent of the issuer's actual working capital expenditures for the prior fiscal year. Another change made by the regulations is that the issuer may not finance the operating reserve with proceeds of a tax-exempt obligation.

Importantly, the regulations contain rules for determining whether proceeds used to reimburse an issuer for costs paid prior to the date of issue of the obligation, in fact, are considered spent at the time of reimbursement. These rules apply to an issuer who uses general revenues for the payment of all or a portion of the costs of a project then uses the proceeds of the bonds to reimburse those general revenues. Failure to comply with these rules would result in the proceeds continuing to be subject to federal income tax restrictions, including rebate.

To qualify for reimbursement, a cost must be described in an expression (e.g., resolution, legislative authorization) evidencing the issuer's intent to reimburse which is made no later than 60 days after the payment of the cost. Reimbursement must occur no later than 18 months after the later of (1) the date the cost is paid or (2) the date the project is placed in service. Except for projects requiring an extended construction period or small issuers, in no event can a cost be reimbursed more than three years after the cost is paid.

Reimbursement generally is not permitted for working capital; only capital costs, grants and loans may be reimbursed. Moreover, certain anti-abuse rules apply to prevent issuers from avoiding the limitations on refundings. IN CASES INVOLVING WORKING CAPITAL OR REIMBURSEMENT, ISSUERS ARE ADVISED TO CONTACT McCALL, PARKHURST & HORTON L.L.P. TO ADDRESS THE FEDERAL INCOME TAX CONSEQUENCES OF THE TRANSACTION.

### **Rebate Payments**

Rebate payments generally are due 60 days after each installment computation date. The interim computation dates occur each fifth anniversary of the issue date. The final computation date is on the latest of (1) the date 60 days after the date the issue of bonds is no longer outstanding, (2) the date eight months after the date of issue for certain short-term obligations (i.e., obligations retired within three years), or (3) the date the issuer no longer reasonably expects any spending exception, discussed below, to apply to the issue. On such payment dates, other than the final payment date, an issuer is required to pay 90 percent of the rebatable arbitrage to the United States. On the final payment date, an issuer is required to pay 100 percent of the remaining rebate liability.

Failure to timely pay rebate does not necessarily result in the loss of tax-exemption. Late payments, however, are subject to the payment of interest, and unless waived, a penalty of 50 percent (or, in the case of private activity bonds, other than qualified 501(c)(3) bonds, 100

percent) of the rebate amount which is due. IN SUCH CIRCUMSTANCES, ISSUERS ARE ADVISED TO CONSULT McCALL, PARKHURST & HORTON L.L.P. TO ADDRESS THE FEDERAL INCOME TAX CONSEQUENCES OF THESE TRANSACTIONS.

Rebate payments are refundable. The issuer, however, must establish to the satisfaction of the Commissioner of the Internal Revenue Service that the issuer paid an amount in excess of the rebate and that the recovery of the overpayment on that date would not result in additional rebatable arbitrage. An overpayment of less than \$5,000 may not be recovered before the final computation date.

### **Alternative Penalty Amount**

In certain cases, an issuer of a bond the proceeds of which are to be used for construction may elect to pay a penalty, in lieu of rebate. The penalty may be elected in circumstances in which the issuer expects to satisfy the two-year spending exception which is more fully described under the heading "Exceptions to Rebate." The penalty is payable, if at all, within 60 days after the end of each six-month period. This is more often than rebate. The election of the alternative penalty amount would subject an issuer, which fails the two-year spend-out requirements, to the payment of a penalty equal to one and one-half of the excess of the amount of proceeds which was required to be spent during that period over the amount which was actually spent during the period.

The penalty has characteristics which distinguish it from arbitrage rebate. First, the penalty would be payable without regard to whether any arbitrage profit is actually earned. Second, the penalty continues to accrue until either (1) the appropriate amount is expended or (2) the issuer elects to terminate the penalty. To be able to terminate the penalty, the issuer must meet specific requirements and, in some instances, must pay an additional penalty equal to three percent of the unexpended proceeds.

### **Exceptions to Rebate**

The Code and regulations provide certain exceptions to the requirement that the excess investment earnings be rebated to the United States.

a. *Small Issuers.* The first exception provides that if an issuer (together with all subordinate issuers) *during a calendar year* does not issue tax-exempt bonds<sup>2</sup> in an aggregate face amount exceeding \$5 million, then the obligations are not subject to rebate. *Only issuers with general taxing powers may take advantage of this exception.* Subordinate issuers are those issuers which derive their authority to issue bonds from the same issuer, e.g., a city and a health facilities development corporation, or which are controlled by the same issuer, e.g., a state and the board of a public university. In the case of bonds issued for public school capital expenditures, the \$5 million cap may be increased to as much as \$15 million. For purposes of measuring whether bonds in the calendar year exceed these dollar limits, current refunding

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<sup>2</sup> For this purpose, "private activity bonds" neither are afforded the benefit of this exception nor are taken into account for purposes of determining the amount of bonds issued.

bonds can be disregarded if they meet certain structural requirements. Please contact McCall, Parkhurst & Horton L.L.P. for further information.

b. Spending Exceptions.

Six-Month Exception. The second exception to the rebate requirement is available to all tax-exempt bonds, all of the gross proceeds of which are expended during six months. The six month rule is available to bonds issued after the effective date of the Tax Reform Act of 1986. See the discussion of effective dates on page two. For this purpose, proceeds used for the redemption of bonds (other than proceeds of a refunding bond deposited to an escrow fund to discharge refunded bonds) can not be taken into account as expended. As such, bonds with excess gross proceeds generally can not satisfy the second exception unless the amount does not exceed the lesser of five percent or \$100,000 and such de minimis amount must be expended within one year.

Certain gross proceeds are not subject to the spend-out requirement, including amounts deposited to a bona fide debt service fund, to a reserve fund and amounts which become gross proceeds received from purpose investments. These amounts themselves, however, may be subject to rebate even though the originally expended proceeds were not. The Code provides a special rule for tax and revenue anticipation notes (i.e., obligations issued to pay operating expenses in anticipation of the receipt of taxes and other revenues). Such notes are referred to as TRANs. To determine the timely expenditure of the proceeds of a TRAN, the computation of the "cumulative cash flow deficit" is important. If the "cumulative cash flow deficit" (i.e., the point at which the operating expenditures of the issuer on a cumulative basis exceed the revenues of the issuer during the fiscal year) occurs within the first six months of the date of issue and must be equal to at least 90 percent of the proceeds of the TRAN, then the notes are deemed to satisfy the exception. This special rule requires, however, that the deficit actually occur, not that the issuer merely have an expectation that the deficit will occur. In lieu of the statutory exception for TRANs, the regulations also provide a second exception. Under this exception, 100 percent of the proceeds must be spent within six months, but before note proceeds can be considered spent, all other available amounts of the issuer must be spent first ("proceeds-spent-last" rule). In determining whether all available amounts are spent, a reasonable working capital reserve equal to five percent of the prior year's expenditures may be set aside and treated as unavailable.

18-Month Exception. The regulations also establish a non-statutory exception to arbitrage rebate if all of the gross proceeds (including investment earnings) are expended within 18 months after the date of issue. Under this exception, 15 percent of the gross proceeds must be expended within a six-month spending period, 60 percent within a 12-month spending period and 100 percent within an 18-month spending period. The rule permits an issuer to rely on its reasonable expectations for computing investment earnings which are included as gross proceeds during the first and second spending period. A reasonable retainage not to exceed five percent of the sale proceeds of the issue is not required to be spent within the 18-month period but must be expended within 30 months. Rules similar to the six-month exception relate to the definition of gross proceeds.

Two Year Exception. Bonds issued after December 19, 1989 (i.e., the effective date of the Omnibus Reconciliation Act of 1989), at least 75 percent of the net proceeds of which are to be used for construction, may be exempted from rebate if the gross proceeds are spent

within two years. Bonds more than 25 percent of the proceeds of which are used for acquisition or working capital may not take advantage of this exception. The exception applies only to governmental bonds, qualified 501(c)(3) bonds and private activity bonds for governmentally-owned airports and docks and wharves. The two-year exception requires that at least 10 percent of the available construction proceeds must be expended within six months after the date of issue, 45 percent within 12 months, 75 percent within 18 months and 100 percent within 24 months. The term "available construction proceeds" generally means sale proceeds of the bonds together with investment earnings less amounts deposited to a qualified reserve fund or used to pay costs of issuance. Under this rule, a reasonable retainage not to exceed five percent need not be spent within 24 months but must be spent within 36 months.

The two-year rule also provides for numerous elections which must be made not later than the date of issuance of the bonds. Once made, the elections are irrevocable. Certain elections permit an issuer to bifurcate bond issues, thereby treating only a portion of the issue as a qualified construction bond; and, permit an issuer to disregard earnings from reserve funds for purposes of determining "available construction proceeds." Another election permits an issuer to pay the alternative penalty amount discussed above in lieu of rebate if the issuer ultimately fails to satisfy the two-year rule. Issuers should discuss these elections with their financial advisors prior to issuance of the bonds. Of course, McCall, Parkhurst & Horton L.L.P. remains available to assist you by providing legal interpretations thereof.

Debt Service Funds. Additionally, an exception to the rebate requirement, whether or not any of the previously discussed exceptions are available, applies for earnings on "bona fide debt service funds." A "bona fide debt service fund" is one in which the amounts are expended within 13 months of the accumulation of such amounts by the issuer. In general, most interest and sinking funds (other than any excess taxes or revenues accumulated therein) satisfy these requirements. For private activity bonds, short term bonds (i.e., have a term of less than five years) or variable rate bonds, the exclusion is available only if the gross earnings in such fund does not exceed \$100,000, for the bond year. For other bonds issued after November 11, 1988, no limitation is applied to the gross earnings on such funds for purposes of this exception. Therefore, subject to the foregoing discussion, the issuer is not required to take such amounts into account for purposes of the computation.

**FOR BONDS ISSUED AFTER THE EFFECTIVE DATE OF THE TAX REFORM ACT OF 1986 WHICH WERE OUTSTANDING AS OF NOVEMBER 11, 1988, OTHER THAN PRIVATE ACTIVITY BONDS, SHORT TERM BONDS OR VARIABLE RATE BONDS, A ONE-TIME ELECTION MAY BE MADE TO EXCLUDE EARNINGS ON "BONA FIDE DEBT SERVICE FUNDS" WITHOUT REGARD TO THE \$100,000, LIMITATION. THE ELECTION MUST BE MADE IN WRITING (AND MAINTAINED AS PART OF THE ISSUER'S BOOKS AND RECORDS) NO LATER THAN THE LATER OF MARCH 21, 1990, OR THE FIRST DATE A REBATE PAYMENT IS REQUIRED.**

### Conclusion

McCall, Parkhurst & Horton L.L.P. hopes that this memorandum will prove to be useful as a general guide to the arbitrage rebate requirements.

Again, this memorandum is not intended as an exhaustive discussion nor as specific advice with respect to any specific transaction. We advise our clients to seek competent

financial and accounting assistance. Of course, we remain available to provide legal advice regarding all federal income tax matters, including arbitrage rebate. If you have any questions, please feel free to contact either Harold T. Flanagan or Stefano Taverna at (214) 754-9200.



EXHIBIT "B"

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May 21, 2013

**Certain Federal Income Tax Considerations for  
Private Business Use of Bond-Financed Facilities**

This memorandum provides a general discussion of those types of contractual arrangements which give rise to private business use, and to what extent that use rises to a prohibited level. Generally, in order for bonds issued by governmental units to be tax-exempt, no more than a de minimis amount of the proceeds of the bonds or the facilities financed with such proceeds may be used by non-governmental users. That is, there may be no more than an incidental use by persons, other than state or local governments. Too much private business use can cause the bonds to become taxable. Private business use for this purpose can be direct or can result from indirect benefits being conveyed to a private person by contractual arrangement. The following discussion describes, in general terms, those types of arrangements which need to be scrutinized.

We hope that this general guideline will be useful to you in interacting with private parties regarding the use of bond proceeds or bond-financed facilities. While the statements contained herein are not intended as advice with regard to any specific transaction, McCall, Parkhurst & Horton L.L.P. remains available should you have questions about these rules. If you have any specific questions or comments, please feel free to contact Stefano Taverna or Harold T. Flanagan at (214) 754-9200.

I. Private Business Use

Arrangements that involve use in a trade or business by a nongovernmental person of bond proceeds or facilities financed with bond proceeds may cause a "private business use" problem. Bond-financed facilities may be used by a variety of people with differing consequences under these rules. For example, students, teachers, employees and the general public may use bond-financed facilities on a non-exclusive basis without constituting private business use. More problematic, however, is use of bond-financed facilities by groups such as managers, lessees (e.g., book store owners), persons providing services (e.g., food or cleaning), seminar groups, sports and entertainment groups, and even alumni associations. The benefits also may be considered to pass to a private person where the right to the output produced by the facility is transferred. For this purpose, the federal government is considered a non-governmental person. Use by an organization organized under section 501(c)(3) of the Internal Revenue Code in a trade or business unrelated to the exempt purpose of such organization also is considered use by a private person.

The term "use" includes both actual and beneficial use. As such, private business use may arise in a variety of ways. For example, ownership of a bond-financed facility by a non-governmental person is private business use. The leasing of a bond-financed facility by a non-governmental person can also cause a private business use problem. Along the same line, management of such facilities by a non-governmental person can cause a problem with private business use, absent compliance with the management contract rules discussed below. Essentially, such use can occur in connection with any arrangement in which the non-governmental user has a preference to benefit from the proceeds or the facilities. Therefore,

any arrangement which results in a non-governmental person being the ultimate beneficiary of the bond financing must be considered.

1. Sales and Leases. The sale of a bond-financed facility to a non-governmental person would cause a private business use problem if that facility involved the use of more than 10 percent of the bond proceeds. Since state law often prohibits a governmental issuer from lending credit, this circumstance generally does not occur. Leases, however, also could be a problem because such arrangements grant a possessory interest in the facility which results in the lessee receiving a right to use the facility which is superior to members of the general public.

2. Management Contracts. Having a private manager will give rise to private business use unless certain terms of the management agreement demonstrate that beneficial use has not been passed to the manager. These factors relate to the compensation arrangements, contract term, cancellation provisions, and the relationship of the parties.

The primary focus of these rules is on compensation. In general, compensation must be reasonable and not be based, in whole or in part, on a share of net profits. Compensation arrangements may take one of four forms: (1) periodic fixed fee; (2) capitation fee; (3) per-unit fee; or (4) percentage of fees charged. In general, a periodic fixed fee arrangement, however, is required in which at least 50 percent of annual compensation be based on a predetermined fee. During the initial two year start-up period, compensation may be based on a percentage of fees charged (i.e., gross revenues, adjusted gross revenues or expenses).

The term of a management contract, generally, may not exceed five years, including all renewal options, and must be cancelable by the governmental unit at the end of the third year. If per-unit fee compensation is used, the term is limited to three years, with a cancellation option for the governmental unit at the end of two years. Where compensation is based on a percentage of gross revenues, the contract may not extend beyond a term of two years, cancelable by the governmental unit at the end of the first year. In each instance, cancellation may be upon reasonable notice, but must be "without penalty or cause," meaning no covenant not to compete, buy-out provision or liquidated damages provision is allowed.

Finally, the manager may not have any role or relationship with the governmental unit that would limit the ability of the governmental unit to exercise its rights under the contract. Any voting power of either party which is vested in the other party, including its officers, directors, shareholders and employees, may not exceed 20 percent. Further, the chief executive officer of either party may not serve on the governing board of the other party. Similarly, the two parties must not be members of the same controlled group or be related persons, as defined in certain provisions of federal tax law.

3. Cooperative Research Agreements. A cooperative research agreement with a private sponsor whereby the private party uses bond-financed facilities may cause a private business use problem. Nevertheless, such use of a bond-financed facility by a non-governmental person is to be disregarded for purposes of private business use if the arrangement is in one of the following forms. First, the arrangement may be disregarded if the sponsoring party is required to pay a competitive price for any license or other use of resulting technology, and such price must be determined at the time the technology is available. Second, an arrangement may also qualify if a four-part requirement is met: (1) multiple, unrelated industry sponsors must agree to fund university-performed basic research; (2) the university must determine the research to be performed and the manner in which it is to be performed; (3) the university must have exclusive title to any patent or other product incidentally resulting from the basic research; and (4) sponsors must be limited to no more than a nonexclusive, royalty-free license to use the product of any such research.

4. Output Contracts. In some circumstances, private business use arises by virtue of contractual arrangements in which a governmental unit agrees to sell the output from a bond-financed facility to a non-governmental person. If the non-governmental person is obligated to take the output or to pay for output even if not taken, then private business use will arise. This is because the benefits and burdens of the bond-financed facility are considered as inuring to the non-governmental purchaser. In addition to the general rule, output-type facilities, including electric and gas generation, transmission and related facilities (but not water facilities) are further limited in the amount of private business use which may be permitted. If more than 5 percent of the proceeds are used for output facilities and if more than 10 percent of the output is sold pursuant to an output arrangement, then the aggregate private business use which may result (for all bond issues) is \$15,000,000.

## II. How Much Private Business Use is Too Much?

In general, there is too much private business use if an amount in excess of 10 percent of the proceeds of the bond issue are to be used, directly or indirectly, in a trade or business carried on by persons other than governmental units, and other than as members of the general public. All trade or business use by persons on a basis different than that of the general public is aggregated for the 10 percent limit. Private business use is measured on a facility or bond issue basis. On a facility basis, such use is generally measured by relative square footage, fair market rental value or the percentage of cost allocable to the private use.

On a bond issue basis, the proceeds of the bond issue are allocated to private and governmental (or public) use of the facility to determine the amount of private business use over the term of the bond issue. Temporary use is not necessarily "bad" (i.e., private use) even though it results in more than 10 percent of the facility being so used. For example, if 100 percent of a facility is used for a period equal to five percent of the term of the bond such use may not adversely impact the bonds. The question is whether the benefits and burdens of ownership have transferred to the private user, as in the case of a sale, lease or management contract. If these benefits and burdens have not transferred, such use may be disregarded for purposes of private business use. In no event should private business use exceed \$15,000,000.

In addition, if the private use is considered "unrelated or disproportionate" to the governmental purpose for issuance of the bonds, the private business use test is met if the level of the prohibited private use rises to 5 percent. The "unrelated" question turns on the operational relationship between the private use and use for the governmental purpose. In most cases, a related use facility must be located within or adjacent to the related governmental facility, e.g., a privately-operated school cafeteria would be related to the school in which it is located. Whereas, the use of a bond-financed facility as an administrative office building for a catering company that operates cafeterias for a school system would not be a related use of bond proceeds. Nonetheless, even if a use is related, it is disproportionate to the extent that bond proceeds used for the private use will exceed proceeds used for the related governmental use.

## III. When are the tests applied to analyze the qualification of a bond?

A bond is tested both (1) on the date of issue, and (2) over the term. The tests are applied to analyze the character of the bond on the date of issue, based on how the issuer expects to use the proceeds and the bond-financed property. This is known as the "**reasonable expectations**" standard. The tests also continuously are applied during the term of the bonds to determine whether there has been a deviation from those expectations. This is known as the "**change of use**" standard. When tested, bonds are viewed on an "issue-by-issue" basis. Generally, bonds secured by the same sources of funds are part of the same "issue" if they are sold within 15 days of one another.

## IV. What is the reasonable expectations standard?

The reasonable expectations standard will be the basis on which McCall, Parkhurst & Horton L.L.P., as bond counsel, will render the federal income tax opinion on the bonds. The statement of expectations will be incorporated into the Federal Tax Certificate, previously referred to as the Federal Tax Certificate. The certificate also will contain information about the amounts to be expended on different types of property, e.g., land, buildings, equipment, in order to compute a weighted useful life of the bond-financed property. Based on the information on useful life, the maximum weighted average maturity of the bonds tested to ensure that is restricted to no more than 120 percent of the useful life of the property being financed or refinanced.

V. Change of Use Standard.

The disqualified private business use need not exist on the date of issue. Subsequent use by non-governmental persons also can cause a loss of tax-exemption. Post-issuance "change of use" of bond-financed facilities could result in the loss of the tax-exempt status of the bonds, unless certain elements exist which demonstrate the change was unforeseen. For this purpose, a change in use includes a failure to limit private business use subsequent to the date of issuance of the bonds. A reasonable expectation element requires that, as of the date of issue of the bonds, the governmental unit reasonably have expected to use the proceeds of the issue for qualified facilities for the entire term of the issue. To fall within the safe harbor rules which avoid loss of tax-exempt status the governmental unit must assure that no circumstances be present which indicate an attempt to avoid directly or indirectly the requirements of federal income tax law.

Finally, the safe harbor requires that the governmental unit take remedial action that would satisfy one of the following provisions: redemption of bonds; alternative use of disposition proceeds of a facility that is financed by governmental bonds; or, alternative use of a facility that is financed by governmental bonds. For purposes of the latter two remedial action provisions, the governmental unit has 90 days from the date of the change of use to satisfy the requirements. In addition, there is an exception for small transactions for dispositions at a loss.

VI. Written Procedures.

The Internal Revenue Service ("IRS") has initiated an active audit program intended to investigate the compliance of governmental issuers with the private activity bond rules described herein and the arbitrage rules described in the other memorandum provided to you by our firm. In connection with the expansion of this program, auditors and their supervisors have expressed the viewpoint that each governmental issuer should establish written procedures to assure continuing compliance. Moreover, the IRS is asking issuers to state in a bond issue's informational return (such an 8038-G) whether such procedures have been adopted. The federal tax certificate, together with the attached memoranda and bond covenants can be supplemented by standard written practices adopted by the executive officer or legislative bodies of the issuer. Accordingly, our firm is prepared to advise you with respect to additional practices which we believe would be beneficial in monitoring compliance and taking remedial action in cases of change in use. There is no standard uniform practice for all issuers to adopt because each issuer operates in unique fashion. However, if you wish us to assist you in developing practices which might assist you in complying with the viewpoints expressed by the IRS and its personnel, please contact your bond lawyer at McCall, Parkhurst & Horton LLP.

**Disclosure Under IRS Circular 230:** McCall Parkhurst & Horton LLP informs you that any tax advice contained in this memorandum, including any attachments, was not intended or written to be used, and cannot be used, for the purpose of avoiding federal tax related penalties or promoting, marketing or recommending to another party any transaction or matter addressed herein.

Exhibit "C"

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December 10, 2015

Mr. Mike Petter  
General Manager  
Brushy Creek Municipal Utility District  
16318 Great Oaks Drive  
Round Rock, Texas 78681

Re: Brushy Creek Municipal Utility District  
Utility System Revenue Note, Series 2016

Dear Mr. Petter:

As you know, the Brushy Creek Municipal Utility District (the "Issuer") will issue the captioned note in order to provide for the acquisition and construction of the project. As a result of that issuance, the federal income tax laws impose certain restrictions on the investment and expenditure of amounts to be used for the project or to be deposited to the interest and sinking account and the reserve account for the captioned note. The purpose of this letter is to set forth, in somewhat less technical language, those provisions of the tax law which require the timely use of bond proceeds and that investment of these amounts be at a yield which is not higher than the yield on the captioned note. For this purpose, please refer to line 21(e) of the Form 8038-G included in the transcript of proceedings for the yield on the captioned note. Please note that the Form 8038-G has been prepared based on the information provided by or on your behalf by your financial advisor. Accordingly, while we believe that the information is correct you may wish to have the yield confirmed before your rebate consultant or the paying agent attempt to rely on it.

Generally, the federal tax laws provide that, unless excepted, amounts to be used for the project or to be deposited to the interest and sinking account and the reserve account must be invested in obligations the combined yield on which does not exceed the yield on the bonds. Importantly, for purposes of administrative convenience, the bonds, however, have been structured in such a way as to avoid, for the most part, this restriction on investment yield. They also contain certain covenants relating to expenditures of proceeds designed to alert you to unintentional failures to comply with the laws affecting expenditures of proceeds and dispositions of property.

First, the sale and investment proceeds to be used for the new money project may be invested for up to three years without regard to yield. (Such amounts, however, may be subject to rebate.) Thereafter, they must be invested at or below the bond yield. Importantly, expenditure of these proceeds must be accounted in your books and records. Allocations of these expenditures must occur within 18 months of the later of the date paid or the date the project is completed. The foregoing notwithstanding, the allocation should not occur later than

60 days after the earlier of (1) of five years after the delivery date of the bonds or (2) the date the bonds are retired unless you obtain an opinion of bond counsel.

Second, the interest and sinking account is made up of amounts which are received annually for the payment of current debt service on all the Issuer's outstanding bonds. Any taxes or revenues deposited to the interest and sinking account which are to be used for the payment of current debt service on the captioned note, or any other outstanding bonds, are not subject to yield restriction. By definition, current debt service refers only to debt service to be paid within one year of the date of receipt of these amounts. For the most part, this would be debt service in the current fiscal year. These amounts deposited to the account for current debt service may be invested without regard to any constraint imposed by the federal income tax laws.

Third, a portion of the interest and sinking account is permitted to be invested without regard to yield restriction as a "minor portion." The "minor portion" exception is available for de minimis amounts of taxes or revenues deposited to the interest and sinking account. The maximum amount that may be invested as part of this account may not exceed the lesser of five percent of the principal amount of the bonds or \$100,000.

In addition, the reserve account contains an amount, which although not expended for debt service within the current year, is necessary to ensure that amounts will be sufficient to pay debt service in the event that taxes or revenues are insufficient during that period. This amount represents a reserve against periodic fluctuations in the receipt of taxes and revenues. The Internal Revenue Code permits amounts which are held in reserve for the payment of debt service, in such instances, to be invested without regard to yield restriction if such amounts do not exceed the lesser of (1) 10 percent of the outstanding principal amount of all outstanding bonds, (2) maximum annual debt service on all outstanding bonds, or (3) 125 percent of average annual debt service on all outstanding bonds.

Accordingly, you should review the current balance in the interest and sinking account and the reserve account in order to determine if such balances exceed the aggregate amounts discussed above. Additionally, in the future it is important that you be aware of these restrictions as additional amounts are deposited to the funds. The amounts in these funds which are subject to yield restriction would only be the amounts which are in excess of, in the case of the interest and sinking account, the sum of (1) the current debt service account and (2) the "minor portion" account and, in the case of the reserve account, the amount which is the lesser of the three amounts described above. Moreover, to the extent that additional bonds are issued by the Issuer, whether for new money projects or for refunding, these amounts will change in their proportion.

The Resolution contains covenants that require the Issuer to comply with the requirements of the federal tax laws relating to the tax-exempt obligations. The Internal Revenue Service (the "Service") has determined that certain materials, records and information should be retained by the issuers of tax-exempt obligations for the purpose of enabling the Service to confirm the exclusion of the interest on such obligations under the Internal Revenue Code. **Accordingly, the Issuer should retain such materials, records and information for the period beginning on the issue date of the captioned note and ending three years after the date the captioned note is retired. Please note this federal tax law standard may vary from state law standards.** The material, records and information required to be retained will generally be contained in the transcript of proceedings for the captioned note, however, the Issuer should collect and retain additional materials, records and information to ensure the continued compliance with federal tax law requirements. For example, beyond the transcript of proceedings for the bonds, the Issuer should keep schedules evidencing the expenditure of bond proceeds, documents relating to the use of bond-financed property by governmental and any private parties (e.g., leases and management contracts, if any) and schedules pertaining to the investment of bond proceeds. In the event that you have questions relating to record retention, please contact us.

The Service also wants some assurance that any failure to comply with the federal tax laws was not due to an issuer's intentional disregard or gross neglect of the responsibilities imposed on it by the federal tax laws. Therefore, to ensure post-issuance compliance, an issuer should consider adopting formalized written guidelines to help the issuer perform diligence reviews at regular intervals. The goal is for issuers to be able to timely identify and resolve violations of the laws necessary to maintain their obligations' tax-favored status. While the federal tax certificate, together with its attachments, may generally provide a basic written guideline when incorporated in an organizations' operations, the extent to which an organization has appropriate written compliance procedures in place is to be determined on a case-by-case basis. Moreover, the Service has indicated that written procedures should identify the personnel that adopted the procedures, the personnel that is responsible for monitoring compliance, the frequency of compliance check activities, the nature of the compliance check activities undertaken, and the date such procedures were originally adopted and subsequently updated, if applicable. The Service has stated that the adoption of such procedures will be a favorable factor that the Service will consider when determining the amount of any penalty to be imposed on an issuer in the event of an unanticipated and non-curable failure to comply with the tax laws.

Finally, you should notice that the Resolution contains a covenant that limits the ability of the Issuer to sell or otherwise dispose of bond-financed property for compensation. Beginning for obligations issued after May 15, 1997 (including certain refunding bonds), or in cases in which an issuer elects to apply new private activity bond regulations, such sale or disposition causes the creation of a class of proceeds referred to as "disposition proceeds." Disposition proceeds, like sale proceeds and investment earnings, are tax-restricted funds. Failure to appropriately account, invest or expend such disposition proceeds would adversely affect the tax-exempt status of the bonds. In the event that you anticipate selling property, even in the ordinary course, please contact us.

Obviously, this letter only presents a fundamental discussion of, among other tax rules, the yield restriction rules as applied to amounts deposited to the funds. This letter does not address the rebate consequences with respect to the interest and sinking account and the reserve account. You should review the memorandum attached to the Federal Tax Certificate as Exhibit "A" for this purpose. If you have certain concerns with respect to the matters discussed in this letter or wish to ask additional questions with regards to certain limitations imposed, please feel free to contact our firm. Thank you for your consideration and we look forward to our continued relationship.

Very truly yours,

McCALL, PARKHURST & HORTON L.L.P.

cc: Ms. Jana H. Edwards

Exhibit "D"

ISSUE PRICE CERTIFICATE

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The undersigned, as the duly authorized representative of Branch Banking and Trust Company (the "Purchaser") of the Utility System Revenue Note, Series 2016 (the "Note") issued by the Brushy Creek Municipal Utility District (the "Issuer"), hereby certifies and represents on behalf of the Purchaser, but not in his/her own right, based on its records and information available to it that it believes, after reasonable inquiry, to be accurate and complete as of the date hereof, as follows:

The Note has been purchased by the Purchaser, who is acquiring as the first buyer of the Note and not for the present purposes of resale, at a purchase price equal to 100 percent of the stated principal amount thereof. The Purchaser neither has nor will offer the Note to the public. The Purchaser is not acquiring the Note from the Issuer in consideration for the payment of property, other than money.

The undersigned understands that the representations made in this Issue Price Certificate will be relied upon, by the Issuer with respect to certain of the representations set forth in this Federal Tax Certificate and by McCall, Parkhurst & Horton L.L.P. (i) in connection with rendering its opinion to the Issuer that interest on the Note is excludable from gross income thereof for income tax purposes, and (ii) for purposes of completing the IRS Form 8038-G. The undersigned is certifying only as to facts in existence on the date hereof. Nothing herein represents the undersigned's interpretation of any laws or the application of any laws to these facts.

EXECUTED and DELIVERED as of this January 14, 2016.

BRANCH BANKING AND TRUST COMPANY

By: Mary Parrish Coley  
Name: Mary Parrish Coley  
Title: Vice President



Exhibit "E"

SCHEDULES OF FINANCIAL ADVISOR

---

[To be attached hereto]

SOURCES AND USES OF FUNDS

Brushy Creek MUD Water & Sewer System  
 WW & S Sys Rev Note, Series 2016  
 FINAL NUMBERS

Dated Date            01/01/2016  
 Delivery Date        01/14/2016

Sources:

Bond Proceeds:	
Par Amount	6,940,000.00
	<u>6,940,000.00</u>

Uses:

Project Fund Deposits:	
Recreation Center Project	6,750,000.00
Cost of Issuance:	
Financial Advisor	84,400.00
Attorney General Fee	6,940.00
Bond Counsel	69,400.00
Bond Issuance Fees	11,406.00
Bond Engineering Report	10,000.00
Other Cost of Issuance	<u>3,594.00</u>
	185,740.00
Other Uses of Funds:	
Additional Proceeds	4,260.00
	<u>6,940,000.00</u>

**BOND SUMMARY STATISTICS**

Brushy Creek MUD Water & Sewer System  
 WW & S Sys Rev Note, Series 2016  
 FINAL NUMBERS

Dated Date	01/01/2016
Delivery Date	01/14/2016
Last Maturity	06/01/2030
Arbitrage Yield	2.630224%
True Interest Cost (TIC)	2.630224%
Net Interest Cost (NIC)	2.636541%
All-In TIC	3.025128%
Average Coupon	2.630000%
Average Life (years)	7.917
Weighted Average Maturity (years)	7.917
Duration of Issue (years)	7.002
Par Amount	6,940,000.00
Bond Proceeds	6,940,000.00
Total Interest	1,445,081.26
Net Interest	1,445,081.26
Total Debt Service	8,385,081.26
Maximum Annual Debt Service	572,671.50
Average Annual Debt Service	583,084.65
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	
<hr/>	
Total Underwriter's Discount	
Bid Price	100.000000

Bond Component	Par Value	Price	Average Coupon	Average Life	PV of 1 bp change
Term Note 2030	6,940,000.00	100.000	2.630%	7.917	8,258.60
	6,940,000.00			7.917	8,258.60

	TIC	All-In TIC	Arbitrage Yield
Par Value	6,940,000.00	6,940,000.00	6,940,000.00
+ Accrued Interest			
+ Premium (Discount)			
- Underwriter's Discount			
- Cost of Issuance Expense		-185,740.00	
- Other Amounts			
Target Value	6,940,000.00	6,754,260.00	6,940,000.00
Target Date	01/14/2016	01/14/2016	01/14/2016
Yield	2.630224%	3.025128%	2.630224%

BOND DEBT SERVICE

Brushy Creek MUD Water & Sewer System  
 WW & S Sys Rev Note, Series 2016  
 FINAL NUMBERS

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
06/01/2016	335,000	2.630%	69,459.76	404,459.76	
09/30/2016					404,459.76
12/01/2016			86,855.75	86,855.75	
06/01/2017	395,000	2.630%	86,855.75	481,855.75	
09/30/2017					568,711.50
12/01/2017			81,661.50	81,661.50	
06/01/2018	405,000	2.630%	81,661.50	486,661.50	
09/30/2018					568,323.00
12/01/2018			76,335.75	76,335.75	
06/01/2019	420,000	2.630%	76,335.75	496,335.75	
09/30/2019					572,671.50
12/01/2019			70,812.75	70,812.75	
06/01/2020	430,000	2.630%	70,812.75	500,812.75	
09/30/2020					571,625.50
12/01/2020			65,158.25	65,158.25	
06/01/2021	440,000	2.630%	65,158.25	505,158.25	
09/30/2021					570,316.50
12/01/2021			59,372.25	59,372.25	
06/01/2022	450,000	2.630%	59,372.25	509,372.25	
09/30/2022					568,744.50
12/01/2022			53,454.75	53,454.75	
06/01/2023	465,000	2.630%	53,454.75	518,454.75	
09/30/2023					571,909.50
12/01/2023			47,340.00	47,340.00	
06/01/2024	475,000	2.630%	47,340.00	522,340.00	
09/30/2024					569,680.00
12/01/2024			41,093.75	41,093.75	
06/01/2025	490,000	2.630%	41,093.75	531,093.75	
09/30/2025					572,187.50
12/01/2025			34,650.25	34,650.25	
06/01/2026	500,000	2.630%	34,650.25	534,650.25	
09/30/2026					569,300.50
12/01/2026			28,075.25	28,075.25	
06/01/2027	515,000	2.630%	28,075.25	543,075.25	
09/30/2027					571,150.50
12/01/2027			21,303.00	21,303.00	
06/01/2028	525,000	2.630%	21,303.00	546,303.00	
09/30/2028					567,606.00
12/01/2028			14,399.25	14,399.25	
06/01/2029	540,000	2.630%	14,399.25	554,399.25	
09/30/2029					568,798.50
12/01/2029			7,298.25	7,298.25	
06/01/2030	555,000	2.630%	7,298.25	562,298.25	
09/30/2030					569,596.50
	6,940,000		1,445,081.26	8,385,081.26	8,385,081.26

BOND PRICING

Brushy Creek MUD Water & Sewer System  
 WW & S Sys Rev Note, Series 2016  
 FINAL NUMBERS

Bond Component	Maturity Date	Amount	Rate	Yield	Price
Term Note 2030:					
	06/01/2016	335,000	2.630%	2.630%	100.000
	06/01/2017	395,000	2.630%	2.630%	100.000
	06/01/2018	405,000	2.630%	2.630%	100.000
	06/01/2019	420,000	2.630%	2.630%	100.000
	06/01/2020	430,000	2.630%	2.630%	100.000
	06/01/2021	440,000	2.630%	2.630%	100.000
	06/01/2022	450,000	2.630%	2.630%	100.000
	06/01/2023	465,000	2.630%	2.630%	100.000
	06/01/2024	475,000	2.630%	2.630%	100.000
	06/01/2025	490,000	2.630%	2.630%	100.000
	06/01/2026	500,000	2.630%	2.630%	100.000
	06/01/2027	515,000	2.630%	2.630%	100.000
	06/01/2028	525,000	2.630%	2.630%	100.000
	06/01/2029	540,000	2.630%	2.630%	100.000
	06/01/2030	555,000	2.630%	2.630%	100.000
		6,940,000			

Dated Date	01/01/2016	
Delivery Date	01/14/2016	
First Coupon	06/01/2016	
Par Amount	6,940,000.00	
Original Issue Discount		
Production	6,940,000.00	100.000000%
Underwriter's Discount		
Purchase Price	6,940,000.00	100.000000%
Accrued Interest		
Net Proceeds	6,940,000.00	

## FORM 8038 STATISTICS

Brushy Creek MUD Water & Sewer System  
 WW & S Sys Rev Note, Series 2016  
 FINAL NUMBERS

Dated Date 01/01/2016  
 Delivery Date 01/14/2016

Bond Component	Date	Principal	Coupon	Price	Issue Price	Redemption at Maturity
Term Note 2030:						
	06/01/2016	335,000.00	2.630%	100.000	335,000.00	335,000.00
	06/01/2017	395,000.00	2.630%	100.000	395,000.00	395,000.00
	06/01/2018	405,000.00	2.630%	100.000	405,000.00	405,000.00
	06/01/2019	420,000.00	2.630%	100.000	420,000.00	420,000.00
	06/01/2020	430,000.00	2.630%	100.000	430,000.00	430,000.00
	06/01/2021	440,000.00	2.630%	100.000	440,000.00	440,000.00
	06/01/2022	450,000.00	2.630%	100.000	450,000.00	450,000.00
	06/01/2023	465,000.00	2.630%	100.000	465,000.00	465,000.00
	06/01/2024	475,000.00	2.630%	100.000	475,000.00	475,000.00
	06/01/2025	490,000.00	2.630%	100.000	490,000.00	490,000.00
	06/01/2026	500,000.00	2.630%	100.000	500,000.00	500,000.00
	06/01/2027	515,000.00	2.630%	100.000	515,000.00	515,000.00
	06/01/2028	525,000.00	2.630%	100.000	525,000.00	525,000.00
	06/01/2029	540,000.00	2.630%	100.000	540,000.00	540,000.00
	06/01/2030	555,000.00	2.630%	100.000	555,000.00	555,000.00
		6,940,000.00			6,940,000.00	6,940,000.00

	Maturity Date	Interest Rate	Issue Price	Stated Redemption at Maturity	Weighted Average Maturity	Yield
Final Maturity	06/01/2030	2.630%	555,000.00	555,000.00		
Entire Issue			6,940,000.00	6,940,000.00	7.9173	2.6302%

Proceeds used for accrued interest	0.00
Proceeds used for bond issuance costs (including underwriters' discount)	185,740.00
Proceeds used for credit enhancement	0.00
Proceeds allocated to reasonably required reserve or replacement fund	0.00

## PROOF OF ARBITRAGE YIELD

Brushy Creek MUD Water & Sewer System  
 WW & S Sys Rev Note, Series 2016  
 FINAL NUMBERS

Date	Debt Service	Present Value to 01/14/2016 @ 2.6302240037%
06/01/2016	404,459.76	400,457.66
12/01/2016	86,855.75	84,880.05
06/01/2017	481,855.75	464,782.61
12/01/2017	81,661.50	77,745.62
06/01/2018	486,661.50	457,310.69
12/01/2018	76,335.75	70,800.79
06/01/2019	496,335.75	454,371.90
12/01/2019	70,812.75	63,984.26
06/01/2020	500,812.75	446,645.36
12/01/2020	65,158.25	57,356.50
06/01/2021	505,158.25	438,900.87
12/01/2021	59,372.25	50,915.30
06/01/2022	509,372.25	431,147.44
12/01/2022	53,454.75	44,658.34
06/01/2023	518,454.75	427,516.55
12/01/2023	47,340.00	38,529.74
06/01/2024	522,340.00	419,611.04
12/01/2024	41,093.75	32,583.31
06/01/2025	531,093.75	415,639.06
12/01/2025	34,650.25	26,765.62
06/01/2026	534,650.25	407,630.32
12/01/2026	28,075.25	21,127.40
06/01/2027	543,075.25	403,374.33
12/01/2027	21,303.00	15,617.62
06/01/2028	546,303.00	395,305.97
12/01/2028	14,399.25	10,284.08
06/01/2029	554,399.25	390,817.47
12/01/2029	7,298.25	5,078.04
06/01/2030	562,298.25	386,162.06
	<u>8,385,081.26</u>	<u>6,940,000.00</u>

Proceeds Summary

Delivery date	01/14/2016
Par Value	6,940,000.00
Target for yield calculation	<u>6,940,000.00</u>

## COST OF ISSUANCE

Brushy Creek MUD Water & Sewer System  
WW & S Sys Rev Note, Series 2016  
FINAL NUMBERS

Cost of Issuance	\$/1000	Amount
Financial Advisor	12.16138	84,400.00
Attorney General Fee	1.00000	6,940.00
Bond Counsel	10.00000	69,400.00
Bond Issuance Fees	1.64352	11,406.00
Bond Engineering Report	1.44092	10,000.00
Other Cost of Issuance	0.51787	3,594.00
	26.76369	185,740.00



Exhibit "F"


CERTIFICATE OF ELECTION PURSUANT TO SECTION 148(f)(4)(C)  
OF THE INTERNAL REVENUE CODE OF 1986

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I, the undersigned, being the duly authorized representative of the Brushy Creek Municipal Utility District (the "Issuer") hereby state that the Issuer elects the provisions of section 148(f)(4)(C) of the Internal Revenue Code of 1986 (the "Code"), relating to the exception to arbitrage rebate for temporary investments, as more specifically designated below, with respect to the Issuer's Utility System Revenue Note, Series 2016 (the "Note") which are being issued on the date of delivery of the Note. The CUSIP Number for the Note is stated on the Form 8038-G filed in connection with the Note. The Issuer intends to take action to comply with the two-year temporary investments exception to rebate afforded construction bonds under section 148(f)(4)(C) of the Code or any of the other exceptions available to the Issuer in accordance with section 1.148-7 of the Treasury Regulations. Capitalized terms have the same meaning as defined in the Federal Tax Certificate.

1. **PENALTY ELECTION.** In the event that the Issuer should fail to expend the "available construction proceeds" of the Note in accordance with the provisions of section 148(f)(4)(C) of the Code, the Issuer elects, in lieu of rebate, the penalty provisions of section 148(f)(4)(C)(vii)(I) of the Code.
2. **RESERVE FUND ELECTION.** The Issuer elects to exclude from "available construction proceeds," within the meaning of section 148(f)(4)(C)(vi) of the Code, of the Note, earnings on the Reserve Fund in accordance with section 148(f)(4)(C)(vi)(IV) of the Code.
3. **MULTIPURPOSE ELECTION.** The Issuer elects to treat that portion of the Note the proceeds of which are to be used for the payment of expenditures for construction, reconstruction or rehabilitation of the Projects, as defined in the instrument authorizing the issuance of the Note, in an amount which is currently expected to be equal to \$ \_\_\_\_\_ as a separate issue in accordance with the provisions of section 148(f)(4)(C)(v)(II) of the Code. *(Note: This election is not necessary unless less than 75 percent of the proceeds of the Note will be used for construction, reconstruction or renovation.)*
4. **ACTUAL FACTS.** For purposes of determining compliance with section 148(f)(4)(c) of the Code (other than qualification of the Note as a qualified construction issue), the Issuer elects to use actual facts rather than reasonable expectations.
5. **NO ELECTION.** The Issuer understands that the elections which are adopted as evidenced by the check in the box adjacent to the applicable provision are **irrevocable**. Further, the Issuer understands that qualification of the Note for eligibility for the exclusion from the rebate requirement set forth in section 148(f) of the Code is based on subsequent events and is unaffected by the Issuer's expectations of such events as of the date of delivery of the Note. **Accordingly, while failure to execute this certificate and to designate the intended election does not preclude qualification, it would preclude the Issuer from the relief afforded by such election.**

DATED: January 14, 2016

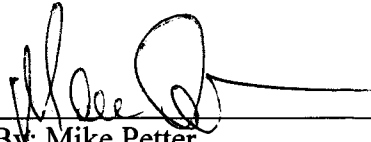
  
General Manager  
Brushy Creek Municipal Utility District  
16318 Great Oaks Drive  
Round Rock, Texas 78681  
Employer I.D. Number: 74-2006801

## CHIEF FINANCIAL OFFICER CERTIFICATE

**IN ACCORDANCE** with Section 7(b)(ii) of the Master Ordinance Establishing the Brushy Creek Municipal Utility District Utility System Revenue Financing Program (the "Master Ordinance") adopted by the Board of Directors of Brushy Creek Municipal Utility District (the "District") on December 10, 2015, I hereby certify the following in connection with the issuance of the \$6,940,000 Brushy Creek Municipal Utility District Utility System Revenue Note, Series 2015 (the "Note"). Any capitalized terms not otherwise defined herein have the meaning given in the Master Ordinance.

- (i) I am the General Manager for the District and authorized to sign this certificate in accordance with the Master Ordinance; and
- (ii) For the Fiscal Year ending September 30, 2015, the Net Earnings were at least equal to the average Annual Debt Service Requirements (computed on a Fiscal Year basis) of the Note. There is no Outstanding Parity Debt.

**EXECUTED** this 10th day of December, 2015.

  
By: Mike Petter  
Title: General Manager

## AUTHORIZED REPRESENTATIVE CERTIFICATE

As the General Manager of Brushy Creek Municipal Utility District (the "District"), an Authorized Representative pursuant to the Master Resolution defined below, I hereby certify the following in connection with the issuance of the \$6,940,000 Brushy Creek Municipal Utility District Utility System Revenue Note, Series 2016 being issued pursuant to the "Master Resolution Establishing the Brushy Creek Municipal Utility District Utility System Revenue Financing Program" (the "Master Resolution") as supplemented by the "First Supplemental Resolution to the Master Resolution Establishing the Brushy Creek Municipal Utility System Utility System Revenue Financing Program" (the "First Supplement"):

(a) any terms not otherwise defined herein have the meaning given in the Master Resolution and the First Supplement; and

(b) to the best of my knowledge, the District has not failed to comply with the covenants contained in the Master Resolution or the First Supplement to any material extent, and the District is not in default, to any material extent, in the performance and observance of any of the terms, promises and conditions in the Master Resolution, the First Supplement or any Credit Agreements that constitute Parity Debt.

**EXECUTED** this December 10, 2015.

**BRUSHY CREEK MUNICIPAL  
UTILITY DISTRICT**



By: Mike Petter

Title: General Manager



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 12, 2016

THIS IS TO CERTIFY that the Brushy Creek Municipal Utility District (the "Issuer") has submitted the Brushy Creek Municipal Utility District Utility System Revenue Note, Series 2016 (the "Note") in the principal amount of \$6,940,000 for approval. The Note is dated January 1, 2016, numbered R-1, and was authorized by a First Supplemental Resolution to the Master Resolution of the Issuer passed on December 10, 2015 (collectively, the "Resolution").

The Office of the Attorney General has examined the law and such certified proceedings and other papers as we deem necessary to render this opinion.


As to questions of fact material to our opinion, we have relied upon representations of the Issuer contained in the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation.

We express no opinion relating to the official statement or any other offering material relating to the Note.

Based on our examination, we are of the opinion, as of the date hereof and under existing law, as follows (capitalized terms, except as herein defined, have the meanings given to them in the Resolution):

- (1) The Note has been issued in accordance with law and is a valid and binding special obligation of the Issuer.
- (2) The Note is payable solely from and equally secured by a lien on and pledge of the Security.
- (3) The owner of the Note shall never have the right to demand payment of the Note from any funds raised or to be raised by taxation.

Therefore, the Note is approved.

  
Attorney General of the State of Texas

No. 60057  
Book No. 2016-A  
MA

\*See attached Signature Authorization

OFFICE OF THE ATTORNEY GENERAL  
OF THE STATE OF TEXAS

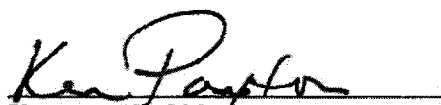
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I, KEN PAXTON, Attorney General for the State of Texas, do hereby authorize the employees of the Public Finance Division of the Office of the Attorney General to affix a digital image of my signature, in my capacity as Attorney General, to the opinions issued by this office approving the issuance of public securities by the various public agencies, non-profit corporations, district, entities, bodies politic or corporate, or political subdivisions of this State as required by law, the opinions approving those contracts designated by the Legislature as requiring the approval of the Attorney General, and the obligations, proceedings and credit agreements required by law to be approved by the Attorney General. The authorized digital image of my signature is attached as Exhibit A and is hereby adopted as my own for the purposes set forth herein. This supersedes any prior signature authorizations for the same purpose.

The authority granted herein is to be exercised on those occasions when I am unavailable to personally sign said opinions, and upon the condition that the opinions to which the digital image signature is affixed have been approved by an authorized Assistant Attorney General following the completion of the Public Finance Division's review of the transcripts of proceedings to which the opinions relate.

Given under my hand and seal of office at Austin, Texas, this the 5th day of January, 2015.



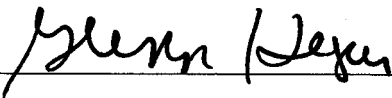
  
KEN PAXTON  
Attorney General of the State of Texas

OFFICE OF COMPTROLLER  
OF THE STATE OF TEXAS

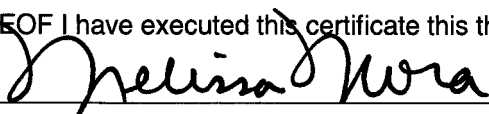
I, Melissa Mora,  Bond Clerk  Assistant Bond Clerk in the office of the Comptroller of the State of Texas, do hereby certify that, acting under the direction and authority of the Comptroller on the 12th day of January 2016, I signed the name of the Comptroller to the certificate of registration endorsed upon the:

Brushy Creek Municipal Utility District Utility System Revenue Note, Series 2016,

numbered R-1, dated January 1, 2016, and that in signing the certificate of registration I used the following signature:

  
\_\_\_\_\_

IN WITNESS WHEREOF I have executed this certificate this the 12th day of January 2016.

  
\_\_\_\_\_

I, Glenn Hegar, Comptroller of Public Accounts of the State of Texas, certify that the person who has signed the above certificate was duly designated and appointed by me under authority vested in me by Chapter 403, Subchapter H, Government Code, with authority to sign my name to all certificates of registration, and/or cancellation of bonds required by law to be registered and/or cancelled by me, and was acting as such on the date first mentioned in this certificate, and that the bonds/certificates described in this certificate have been duly registered in the office of the Comptroller, under Registration Number 86452.

GIVEN under my hand and seal of office at Austin, Texas, this the 12th day of January 2016.



GLENN HEGAR  
Comptroller of Public Accounts  
of the State of Texas

OFFICE OF COMPTROLLER

OF THE STATE OF TEXAS

I, Glenn Hegar, Comptroller of Public Accounts of the State of Texas, do hereby certify that the attachment is a true and correct copy of the opinion of the Attorney General approving the:

Brushy Creek Municipal Utility District Utility System Revenue Note, Series 2016

numbered R-1, of the denomination of \$ 6,940,000, dated January 1, 2016, as authorized by issuer, interest 2.63 percent, under and by authority of which said note was registered in the office of the Comptroller, on the 12th day of January 2016, under Registration Number 86452.

Given under my hand and seal of office, at Austin, Texas, the 12th day of January 2016.

A handwritten signature in black ink, appearing to read 'Glenn Hegar', with a stylized flourish at the end.

GLENN HEGAR  
Comptroller of Public Accounts  
of the State of Texas

LAW OFFICES

**M<sup>c</sup>CALL, PARKHURST & HORTON L.L.P.**

717 NORTH HARWOOD  
SUITE 900  
DALLAS, TEXAS 75201-6587  
TELEPHONE: 214 754-9200  
FACSIMILE: 214 754-9250

600 CONGRESS AVENUE  
SUITE 1800  
AUSTIN, TEXAS 78701-3248  
TELEPHONE: 512 478-3805  
FACSIMILE: 512 472-0871

700 N. ST. MARY'S STREET  
SUITE 1525  
SAN ANTONIO, TEXAS 78205-3503  
TELEPHONE: 210 225-2800  
FACSIMILE: 210 225-2984

January 14, 2016

**BRUSHY CREEK MUNICIPAL UTILITY DISTRICT  
UTILITY SYSTEM REVENUE NOTE, SERIES 2016  
IN THE AGGREGATE PRINCIPAL AMOUNT OF \$6,940,000**

**AS BOND COUNSEL FOR BRUSHY CREEK MUNICIPAL UTILITY DISTRICT** (the "District") of the note described above (the "Note"), we have examined into the legality and validity of the Note, which bears interest from the date specified in the text of the Note, until maturity or redemption, at the rates and payable on the dates as stated in the text of the Note, and maturing all in accordance with the terms and conditions stated in the text of the Note and in the Master Resolution Establishing the Brushy Creek Municipal Utility District Utility System Revenue Financing Program adopted by the board of the directors of the District on December 10, 2015 and the First Supplemental Resolution to the Master Resolution Establishing the Brushy Creek Municipal Utility District Utility System Revenue Financing Program adopted on December 10, 2015 (the "First Supplement") authorizing the issuance of the Note (collectively, the "Resolution").

**WE HAVE EXAMINED** the Constitution and laws of the State of Texas, certified copies of the proceedings of the District, relating to the issuance of the Note, including the Resolution and other documents authorizing and relating to the issuance of the Note; and we have examined various certificates and documents executed by officers and officials of the District upon which certificates and documents we rely as to certain matters stated below. We have also examined the executed Note which we found to be in proper form and duly executed.

**BASED ON SAID EXAMINATION, IT IS OUR OPINION** that said Note has been duly authorized, issued and delivered in accordance with law; and that said Note, except as the enforceability thereof may be limited by laws applicable to the District relating to governmental immunity, bankruptcy, insolvency, reorganization, moratorium, liquidation and other similar laws now or hereafter enacted related to creditors' rights, generally or by general principle of equity which permit the exercise of judicial discretion constitutes a valid and legally binding obligation of the District, payable from and secured by, a lien on and pledge of the "Net Revenues" of the "System" (which is generally described as the District's utility system) all as provided in the Resolution. Such pledge of Net Revenues is subject to the right of a city, under existing Texas



law, to annex all of the territory within the District; to take over all properties and assets of the District; to assume all debts, liabilities, and obligations of the District, including the Note; and to abolish the District.

**THE DISTRICT** reserves the right to issue additional tax bonds, revenue bonds and other obligations payable from other resources including contracts with other persons, including private corporations, municipalities, and political subdivisions.

**IT IS FURTHER OUR OPINION**, except as discussed below, that the interest on the Note is excludable from the gross income of the owners thereof for federal income tax purposes under the statutes, regulations, published rulings, and court decisions existing on the date of this opinion. We are further of the opinion that the Note is not a "specified private activity bond" and that, accordingly, interest on the Note will not be included as an individual or corporate alternative minimum tax preference item under section 57(a)(5) of the Internal Revenue Code of 1986 (the "Code"). In expressing the aforementioned opinions, we have relied on certain representations, the accuracy of which we have not independently verified, and assume compliance by the District with certain covenants, regarding the use and investment of the proceeds of the Note and the use of the property financed therewith. We call your attention to the fact that if such representations are determined to be inaccurate or upon a failure by the District to comply with such covenants, interest on the Note may become includable in gross income retroactively to the date of issuance of the Note.

**OUR OPINIONS ARE BASED ON EXISTING LAW**, which is subject to change. Such opinions are further based on our knowledge of facts as of the date hereof. We assume no duty to update or supplement our opinions to reflect any facts or circumstances that may thereafter come to our attention or to reflect any changes in any law that may thereafter occur or become effective. Moreover, our opinions are not a guarantee of result and are not binding on the Internal Revenue Service (the "Service"); rather, such opinions represent our legal judgment based upon our review of existing law and in reliance upon the representations and covenants referenced above that we deem relevant to such opinions. The Service has an ongoing audit program to determine compliance with rules that relate to whether interest on state or local obligations is includable in gross income for federal income tax purposes. No assurance can be given whether or not the Service will commence an audit of the Note. If an audit is commenced, in accordance with its current published procedures the Service is likely to treat the District as the taxpayer. We observe that the District has covenanted not to take any action, or omit to take any action within its control, that if taken or omitted, respectively, may result in the treatment of interest on the Note as includable in gross income for federal income tax purposes.

**EXCEPT AS STATED ABOVE**, we express no opinion as to any other federal, state, or local tax consequences of acquiring, carrying, owning, or disposing of the Note. In particular, but not by way of limitation, we express no opinion with respect to the federal, state or local tax consequences arising from the enactment of any pending or future legislation.

**WE CALL YOUR ATTENTION TO THE FACT** that the interest on tax-exempt obligations, such as the Note, is included in a corporation's alternative minimum taxable income

for purposes of determining the alternative minimum tax imposed on corporations by section 55 of the Code.

**WE EXPRESS NO OPINION** as to any insurance policies issued with respect to the payments due for the principal of and interest on the Note, nor as to any such insurance policies issued in the future.

**OUR SOLE ENGAGEMENT** in connection with the issuance of the Note is as Bond Counsel for the District, and, in that capacity, we have been engaged by the District for the sole purpose of rendering an opinion with respect to the legality and validity of the Note under the Constitution and laws of the State of Texas, and with respect to the exclusion from gross income of the interest on the Note for federal income tax purposes, and for no other reason or purpose. We have not been requested to investigate or verify, and have not independently investigated or verified any records, data, or other material relating to the financial condition or capabilities of the District, or the disclosure thereof in connection with the sale of the Note, and have not assumed any responsibility with respect thereto. We express no opinion and make no comment with respect to the marketability of the Note and have relied solely on certificates executed by officials of the District as to the current outstanding indebtedness of the District and sufficiency of the pledged revenues of the District.

**THE FOREGOING OPINIONS** represent our legal judgment based upon a review of existing legal authorities that we deem relevant to render such opinions and are not a guarantee of a result.

Respectfully,  
*McCall, Parkhurst & Horton L.L.P.*

**Information Return for Tax-Exempt Governmental Obligations**

► Under Internal Revenue Code section 149(e)  
 ► See separate instructions.

OMB No. 1545-0720

Caution: If the issue price is under \$100,000, use Form 8038-GC.

<b>Part I Reporting Authority</b>		If Amended Return, check here <input type="checkbox"/>
1 Issuer's name <b>Brushy Creek Municipal Utility District</b>		2 Issuer's employer identification number (EIN) <b>74-2006801</b>
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions) <b>None</b>		3b Telephone number of other person shown on 3a <b>N/A</b>
4 Number and street (or P.O. box if mail is not delivered to street address) <b>16318 Great Oaks Drive</b>	Room/suite	5 Report number (For IRS Use Only) <b>3</b>
6 City, town, or post office, state, and ZIP code <b>Round Rock, Texas 78681</b>		7 Date of issue <b>01/14/2016</b>
8 Name of issue <b>Utility System Revenue Note, Series 2016</b>		9 CUSIP number <b>None</b>
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) <b>Mike Petter, General Manager</b>		10b Telephone number of officer or other employee shown on 10a <b>(512) 255-7871</b>

<b>Part II Type of Issue (enter the issue price). See the instructions and attach schedule.</b>	
11 Education . . . . .	11
12 Health and hospital . . . . .	12
13 Transportation . . . . .	13
14 Public safety . . . . .	14
15 Environment (including sewage bonds) . . . . .	15
16 Housing . . . . .	16
17 Utilities . . . . .	17 <b>6,940,000</b>
18 Other. Describe ►	18
19 If obligations are TANs or RANs, check only box 19a . . . . . <input type="checkbox"/>	
If obligations are BANs, check only box 19b . . . . . <input type="checkbox"/>	
20 If obligations are in the form of a lease or installment sale, check box . . . . . <input type="checkbox"/>	

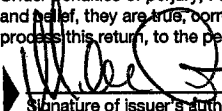
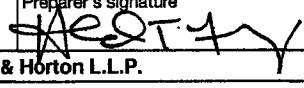
<b>Part III Description of Obligations. Complete for the entire issue for which this form is being filed.</b>					
	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	06/01/2030	\$ 6,940,000	\$ 6,940,000	7.91 years	2.6302 %

<b>Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)</b>						
22	Proceeds used for accrued interest . . . . .				22	-0-
23	Issue price of entire issue (enter amount from line 21, column (b)) . . . . .				23	6,940,000
24	Proceeds used for bond issuance costs (including underwriters' discount) . . . . .				24	185,740
25	Proceeds used for credit enhancement . . . . .				25	-0-
26	Proceeds allocated to reasonably required reserve or replacement fund . . . . .				26	-0-
27	Proceeds used to currently refund prior issues . . . . .				27	-0-
28	Proceeds used to advance refund prior issues . . . . .				28	-0-
29	Total (add lines 24 through 28) . . . . .				29	185,740
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here) . . . . .				30	6,754,260

<b>Part V Description of Refunded Bonds. Complete this part only for refunding bonds.</b>		Not applicable
31 Enter the remaining weighted average maturity of the bonds to be currently refunded . . . . .	►	_____ years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded . . . . .	►	_____ years
33 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY) . . . . .	►	_____
34 Enter the date(s) the refunded bonds were issued ► (MM/DD/YYYY)		

**Part VI Miscellaneous**

<b>35</b>	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . . . .	<b>35</b>	-0-
<b>36a</b>	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions) . . . . .	<b>36a</b>	-0-
<b>b</b>	Enter the final maturity date of the GIC ▶ _____		
<b>c</b>	Enter the name of the GIC provider ▶ _____		
<b>37</b>	Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units . . . . .	<b>37</b>	-0-
<b>38a</b>	If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the following information:		
<b>b</b>	Enter the date of the master pool obligation ▶ _____		
<b>c</b>	Enter the EIN of the issuer of the master pool obligation ▶ _____		
<b>d</b>	Enter the name of the issuer of the master pool obligation ▶ _____		
<b>39</b>	If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box . . . . .	<input checked="" type="checkbox"/>	
<b>40</b>	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . . .	<input type="checkbox"/>	
<b>41a</b>	If the issuer has identified a hedge, check here <input type="checkbox"/> and enter the following information:		
<b>b</b>	Name of hedge provider ▶ _____		
<b>c</b>	Type of hedge ▶ _____		
<b>d</b>	Term of hedge ▶ _____		
<b>42</b>	If the issuer has superintegrated the hedge, check box . . . . .	<input type="checkbox"/>	
<b>43</b>	If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box . . . . .	<input checked="" type="checkbox"/>	
<b>44</b>	If the issuer has established written procedures to monitor the requirements of section 148, check box . . . . .	<input checked="" type="checkbox"/>	
<b>45a</b>	If some portion of the proceeds was used to reimburse expenditures, check here <input checked="" type="checkbox"/> and enter the amount of reimbursement . . . . . ▶ <u>\$210,000 *</u>		
<b>b</b>	Enter the date the official intent was adopted ▶ <u>* preliminary expenses</u>		

<b>Signature and Consent</b>	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
		<b>Mike Petter</b>	<b>General Manager</b>	
<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed
	Harold T. Flanagan		1-14-16	<input type="checkbox"/>
	Firm's name ▶ McCall, Parkhurst & Horton L.L.P.	Firm's EIN ▶	75-0799392	PTIN P01071147
	Firm's address ▶ 717 N. Harwood, Suite 900, Dallas, TX 75201	Phone no.	214-754-9200	



**Jan Bartholomew**  
Managing Director  
Public Finance

Phone: 713-230-6121  
Email: jbartholomew@rwbaird.com

January 12, 2016

Ms. Mary Parrish Coley  
BB&T Governmental Finance  
5130 Parkway Plaza Boulevard  
Charlotte, NC 28217

RE: \$6,940,000 Brushy Creek Municipal Utility District  
Utility System Revenue Note, Series 2016

Dear Mary:

The delivery of the above captioned Revenue Note (the "Note") is scheduled for 10:00 a.m., Thursday, January 14, 2016, at your bank. Ms. Carol Pumbo of McCall, Parkhurst & Horton L.L.P., Austin, Texas, Bond Counsel, will handle all legal matters relating to the closing.

At or prior to closing, BB&T Governmental Finance ("BB&T") will make the following wires:

1. \$6,937,500.00 will be wired to the District's Capital Project Fund as follows:

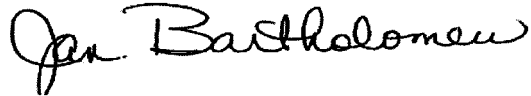
Brushy Creek MUD  
16318 Great Oaks Drive  
Round Rock, TX 78681  
c/o JP Morgan Chase  
ABA: 113000609  
Account # 08805173794  
FFC: LOGIC Investment Cooperative  
OBI: Brushy Creek Municipal Utility District, 2006801014

2. \$2,500.00 will be wired to Bickerstaff Heath Delgado Acosta LLP for Bank Counsel fees to the following account:

Bickerstaff Heath Delgado Acosta LLP  
3711 S. MoPac  
Building One, Suite 300  
Austin, TX 78746  
c/o Bickerstaff Heath Delgado Acosta LLP, Client Trust Account  
Frost Bank  
401 Congress Ave., Suite 1200  
Austin, TX 78701  
Account #59-1068717  
ABA #114000093  
Client No. 3701.29  
Attn: Chris Sims, Controller (512) 472-8021

If I may be of further assistance, please do not hesitate to contact me at 713-230-6121

Sincerely,  
ROBERT W. BAIRD & CO. INCORPORATED

A handwritten signature in black ink that reads "Jan Bartholomew". The signature is written in a cursive style with a large initial "J".

Jan Bartholomew  
Managing Director

cc: Jana Edwards – McCall, Parkhurst & Horton L.L.P.  
Carol Pumbo – McCall, Parkhurst & Horton L.L.P.  
Linda Sharpe - McCall, Parkhurst & Horton L.L.P.  
Tom Pollan – Bickerstaff Heath Delgado Acosta LLP  
Beth Myers - Bickerstaff Heath Delgado Acosta LLP  
Nancy Trinh Olson – Maxwell Locke & Ritter LLP  
Mike Petter – Brushy Creek Municipal Utility District

**UNITED STATES OF AMERICA**  
**STATE OF TEXAS**  
**COUNTY OF WILLIAMSON**  
**BRUSHY CREEK MUNICIPAL UTILITY DISTRICT**  
**UTILITY SYSTEM REVENUE NOTE,**  
**SERIES 2016**

No. R-1

\$6,940,000

<b><u>DATED</u></b>	<b><u>INTEREST</u></b>	<b><u>MATURITY</u></b>
<b><u>DATE:</u></b>	<b><u>RATE:</u></b>	<b><u>DATE:</u></b>
January 1, 2016	2.63%	June 1, 2030

**REGISTERED OWNER:** BRANCH BANKING AND TRUST COMPANY

**PRINCIPAL AMOUNT:** SIX MILLION NINE HUNDRED FORTY THOUSAND DOLLARS

The Brushy Creek Municipal Utility District (the "District") hereby promises to pay, solely from the sources hereinafter identified and as hereinafter stated, to the Registered Owner named above, or the registered assigns thereof, on June 1 in the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

YEAR	INTEREST RATE	PRINCIPAL INSTALLMENTS
2016	2.63%	\$335,000
2017	2.63	395,000
2018	2.63	405,000
2019	2.63	420,000
2020	2.63	430,000
2021	2.63	440,000
2022	2.63	450,000
2023	2.63	465,000
2024	2.63	475,000
2025	2.63	490,000
2026	2.63	500,000
2027	2.63	515,000
2028	2.63	525,000
2029	2.63	540,000
2030	2.63	555,000

In the principal amount of \$6,940,000 and to pay interest on the unpaid principal amount hereof from the date of initial delivery of the Note at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on June 1 and December 1 of each year, commencing June 1, 2016. Principal of this Note shall be payable to the Registered Owner hereof, upon presentation and surrender, at the designated office

of the Paying Agent/Registrar named in the registration certificate appearing hereon, or its successor. Interest shall be payable to the Registered Owner of this Note whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the fifteenth day of the preceding month. All payments of principal of, premium, if any, and interest on this Note shall be payable in lawful money of the United States of America, without exchange or collection charges, and interest payments shall be made by the Paying Agent/Registrar by check sent on or before the appropriate date of payment, by United States mail, first-class postage prepaid, to the Registered Owner hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner hereof.

This Note is issued pursuant to the laws of the State of Texas, including specifically Section 49.153, Texas Water Code, and initially under and pursuant to a resolution of the District adopted on December 10, 2015, and entitled "First Supplemental Resolution to the Master Resolution Establishing the Brushy Creek Municipal Utility District Utility System Revenue Financing Program" (the "First Supplement") for the purpose of (i) paying the costs of acquiring, purchasing, constructing, improving, renovating, enlarging or equipping the District's Community Center and (ii) paying the costs associated with the issuance of the Note. The Note is authorized pursuant to authority conferred by and in conformity with State law, particularly the provisions of the Enabling Act. The Note is secured by a first lien on and pledge of the Security as defined in the Master Resolution adopted on December 10, 2015 (the "Master Resolution"), on a parity with all other Parity Debt (as defined in the Master Resolution and the First Supplement).

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

The Note is issued as "Current Interest Note," which totals in principal amount \$6,940,000, and which pays accrued interest at stated intervals to the Registered Owner.

### **Redemption Provisions**

The Note is subject to redemption prior to maturity at the option of the District, in whole, on June 1, 2024, and on any date thereafter, at a redemption price equal to the principal amount thereof plus accrued interest from the most recent payment date to the date fixed for redemption. The Note is also subject to a one-time partial redemption of the note at any time on or after June 1, 2024 at a redemption price equal to the principal amount plus accrued interest.

At least 30 days prior to the date fixed for any redemption of Note or a one-time partial redemption thereof prior to maturity, a written notice of such redemption shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, at least 30 days prior to the date fixed for any such redemption to the Registered Owner of the Note to be redeemed at its address as it appeared on the Registration Books maintained by the Paying Agent/Registrar on the day such notice of redemption is mailed. By the date fixed for any such redemption, due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Note or portion thereof which is to be so redeemed. If such written notice of redemption



is mailed and if due provision for such payment is made, all as provided above, the Note or portion thereof which is to be so redeemed thereby automatically shall be treated as redeemed prior to its scheduled maturities, and it shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Note shall be redeemed a substitute Note having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the Registered Owner, and in an aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the District, all as provided in the Resolution.

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

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

If this Note is in a denomination in excess of \$5,000, portions of the principal sum hereof in principal amount of \$5,000 or any integral multiple thereof may be redeemed, and, if less than all of the principal sum hereof is to be redeemed, there shall be issued, without charge therefor, to the Registered Owner hereof, upon the surrender of this Note at the principal office of the Paying Agent/Registrar, a new Note of like maturity, series and interest rate in any authorized denominations provided by the Resolution for the then unredeemed balance of the principal amount hereof. If this Note is selected for redemption, in whole or one-time in part, neither the District nor the Paying Agent/Registrar shall be required to transfer this Note to an assignee of the Registered Owner within forty-five (45) days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to any exchange by the Registered Owner of the unredeemed balance hereof in the event of its one-time redemption in part.

The Note is a special obligation of the District payable solely from and equally secured by a lien on and pledge of the Security. The Note does not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the District, except with respect to the Security.

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

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

Reference is hereby made to the Resolution, a copy of which is on file in the designated office of the Paying Agent/Registrar, and to all of the provisions of which any Registered Owner of this Note by his acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for the Note; the Security; the nature and extent and manner of enforcement of the pledge; the terms and conditions for the issuance of additional Parity Debt; the conditions upon which the Resolution may be amended or supplemented with or without the consent of the Registered Owners of the Note; the rights and remedies of the Registered Owner hereof with respect hereto and thereto; the rights, duties and obligations of the District; the terms and provisions upon which the liens, pledges, charges, and covenants made therein may be discharged at or prior to the maturity or redemption of this Note and this Note thereafter no longer to be secured by the Resolution or be deemed to be outstanding thereunder; and for the other terms and provisions thereof.

This Note, subject to certain limitations contained in the Resolution, may be transferred to an affiliate or subsidiary of the Owner only upon its presentation and surrender at the designated office of the Paying Agent/Registrar named below, or its successor with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the Registered Owner hereof, or his duly authorized agent, and such transfer is noted on the Security Register by the Paying Agent/Registrar. When a transfer occurs, one or more new fully-registered Note of the same Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued to the designated transferee or transferees.

The District and the Paying Agent/Registrar, and any agent of either, shall treat the Registered Owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Note as the owner entitled to payment of principal hereof at its Maturity or its redemption, in whole or one-time in part, and (iii) on any other date as the owner for all other purposes, and neither the District nor the Paying Agent/Registrar, nor any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the District. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Registered Owner appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented, and declared that the District is a duly organized and legally existing municipal utility district, organized under and by virtue of the Constitution and laws of the State of Texas; that the issuance of this Note and the series of which it is a part are

duly authorized by law; that all acts, conditions, and things required to exist and be done precedent to and in the issuance of this Note to render the same lawful and valid have been properly done, have happened, and have been performed in regular and due time, form, and manner as required by the Constitution and laws of the State of Texas and the Resolution; that this Note does not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of this Note. In case any provision in this Note shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The terms and provisions of this Note and the Resolution shall be construed in accordance with and shall be governed by the laws of the State of Texas. The holder of this Note is not entitled to demand payment of this Note out of any money raised by taxation.

SPECIMEN

IN TESTIMONY WHEREOF, the District has caused its seal to be impressed or a facsimile thereof to be printed hereon and this Note to be executed in the name of and on behalf of the District with the manual or facsimile signatures of its President, and attested by the District Secretary.

**BRUSHY CREEK MUNICIPAL UTILITY DISTRICT**

By:   
Secretary

By:   
President



SPECIMEN

## PAYMENT RECORD

Date of Payment	Principal Payment (amount and installment(s) to which payment is applied)	Remaining Principal Balance	Name and Title of Authorized Officer Making Entry	Signature of Authorized Officer
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

SPECIMEN

**CERTIFICATE OF PAYING AGENT/REGISTRAR**

This is the Note referred to in the within mentioned Resolution. The Note is originally issued as one Note which was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Branch Banking and Trust Company,  
as Paying Agent/Registrar

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Signatory

SPECIMEN

**ASSIGNMENT**

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

(Social Security or other identifying number: \_\_\_\_\_) the within Note and all rights hereunder and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Note on the books kept for registration hereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

**NOTICE:** The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Note in every particular and must be guaranteed in a manner acceptable to the Paying Agent/Registrar.

Signature Guaranteed By:

\_\_\_\_\_  
Authorized Signatory

SPECIMEN

REGISTRATION CERTIFICATE OF  
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER  
OF PUBLIC ACCOUNTS

§  
§  
§  
§

REGISTER NO. 86452

THE STATE OF TEXAS

I HEREBY CERTIFY THAT there is on file and of record in my office a certificate to the effect that the Attorney General of the State of Texas has approved this Note, and that this Note has been registered this day by me.

WITNESS MY SIGNATURE AND SEAL OF OFFICE this

[SEAL]

*Deena Hege*  
Comptroller of Public Accounts  
of the State of Texas

SPECIMEN



**RECEIPT FOR PROCEEDS**

**THE STATE OF TEXAS** §  
§  
**BRUSHY CREEK MUNICIPAL**  
**UTILITY DISTRICT** §

The undersigned hereby certifies as follows:

- (a) This certificate is executed and delivered with reference to:

\$6,940,000 Brushy Creek Municipal Utility District  
Utility System Revenue Note, Series 2016;

- (b) The undersigned is acting as Paying Agent on behalf of the Issuer of the Securities;

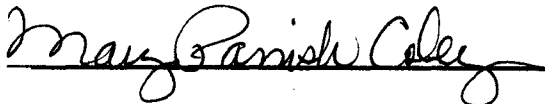
- (c) The Securities have been duly delivered to the purchasers thereof, namely:

**BRANCH BANKING & TRUST COMPANY;**

- (d) We acknowledge the transfers and deposits in accordance with the Closing Instruction Letter dated January 14, 2016 relating to the Securities.

**EXECUTED AND DELIVERED** this 14<sup>th</sup> day of January, 2016.

**BRANCH BANKING & TRUST COMPANY**

By: 

Title: Vice President