

**WHOLESALE WATER SERVICE AGREEMENT
BETWEEN THE CITIES OF ROUND ROCK AND GEORGETOWN**

This Wholesale Water Service Agreement Between the Cities of Round Rock and Georgetown (this "Agreement") is made and entered into by and between the City of Georgetown, a Texas home rule municipal corporation ("Georgetown") acting by and through its duly authorized Mayor, and the City of Round Rock, a Texas home rule municipal corporation ("Round Rock") acting by and through its duly authorized Mayor.

RECITALS:

Whereas, Round Rock and Georgetown recognize that substantial benefits may be derived from joint cooperation with each other in the planning, financing, construction and provisions of utilities; and

Whereas, Georgetown has a need for a source of additional treated water for the southwest portion of its water service area; and

Whereas, Round Rock has excess capacity in its water treatment system and is willing to sell wholesale potable water to Georgetown; and

Whereas, Georgetown, and Round Rock desire to set forth in writing the terms and conditions for the sale of water from Round Rock to Georgetown;

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and undertakings set forth below, Georgetown and Round Rock hereby contract and agree as follows:

**ARTICLE ONE
DEFINITIONS**

1.01 Unless the context clearly requires otherwise, the following terms shall have the meaning set forth below:

Agreement: means this Wholesale Water Service Agreement Between the Cities of Round Rock and Georgetown.

As Available Service means the increment of interim wholesale water service in excess of Firm Service as defined below to be provided to Georgetown by Round Rock under this Agreement only if Round Rock determines that such additional increment of potable water service is available on a temporary basis from the Round Rock system after meeting the potable water service requirements of its customers as hereinafter more particularly set forth.

Cities: means Georgetown and Round Rock.

Effective Date: means the ____ day of _____, 2020.

Firm Service: the maximum assured level of potable water service, expressed in gallons per day that Round Rock determines it is capable of providing to Georgetown on a consistent basis from its water system, throughout the term of this Agreement.

Georgetown: means the City of Georgetown, Texas.

Meter, Highlands at Mayfield: means the water meter located in the vicinity of the Highlands at Mayfield Ranch subdivision, as shown on **Exhibit A**.

Meter, County Road 175: means the water meter located near County Road 175, as shown on **Exhibit A**.

Points of Delivery: means the two points where the Meters are located and where Georgetown's water system will be connected to Round Rock's water system and from which Georgetown may withdraw water from Round Rock's water system.

Round Rock: means the City of Round Rock, Texas.

Water: means potable water meeting those requirements for human consumption and other uses promulgated by the Texas Department of Health, and/or the Texas Commission on Environmental Quality.

ARTICLE TWO TERMS AND CONDITIONS FOR WATER SERVICE

2.01 Agreement to Provide Water Service. Subject to the terms and conditions of this Agreement and the requirements of applicable law, Round Rock agrees to provide water service to Georgetown at the Point(s) of Delivery for the term of this Agreement. The Point(s) of Delivery will be agreed upon by Round Rock and Georgetown. The maximum level of water service to be provided by Round Rock to Georgetown under this Agreement shall be as set forth below.

2.02. Water Meters at the Points of Delivery. Water delivered to Georgetown will be measured by a meter installed at each Point of Delivery. Metering equipment and related facilities, including a meter vault and standard-type devices required for properly measuring the quantity of Water delivered to Georgetown, will be installed at each Point of Delivery as set forth in Sections 3.01 and 4.01 below. The meter(s) installed shall have the capability of restricting the rate of flow through the meter, as set forth in Sections 3.02 and 4.02 below. The water meters that are installed shall be Automatic Metering Infrastructure capable and be manufactured by Master Meter, Inc. or other equivalent vendor approved by Round Rock. After installation, Round Rock will own, operate, and maintain the metering equipment, and upstream improvements.

2.03. Meter Calibration and Billing Adjustments. At both Points of Delivery, Round Rock will calibrate the meters annually at its cost. Round Rock will provide Georgetown with a copy of the calibration report within ten calendar days of Round Rock's receipt of same. At Georgetown's request, Round Rock shall calibrate the meters more frequently. If Georgetown requests calibration of a meter more frequently than once every 12 months and, upon calibration, the meter in question proves to be accurate, then the cost of the calibration will be borne by Georgetown. Any meter registering within the accuracy range as defined by the American Water Works Association or its successor agency for continuous maximum duty usage for that type and size of meter will be deemed to be accurate. If any meter test indicates that the meter is inaccurate, the meter will be recalibrated or replaced, and a billing adjustment will be made based on the degree of the meter's inaccuracy, as determined by the test. If the Cities can reasonably estimate the time at which the meter became inaccurate, Round Rock will make a billing adjustment based on that time period. If the Cities cannot reasonably estimate the time at which the meter became inaccurate, then Round Rock will make a billing adjustment to no more than the previous six months' billings.

2.04. Meter Repair and Access. If a Point(s) of Delivery meter is out of service or under repair so that the amount of Water delivered cannot be ascertained or computed from the readings, the Water delivered during the period the meter was out of service or repair will be estimated and agreed upon by the Cities based on previous billings and other relevant information. Round Rock will keep accurate records of the amount Water passing through the meters on a daily basis. Such records will be available to Georgetown for inspection or copying at all times during regular business hours. Both Georgetown and Round Rock will be entitled to access the Point of Delivery meters at all times.

2.05 Billing and Payment. Round Rock shall send a bill to Georgetown once per month setting forth the quantity of Water delivered to Georgetown as determined by Round Rock's periodic readings of the Point of Delivery meters. Each bill shall include a due date and the total amount owed to Round Rock based on the metered quantity of Water delivered multiplied by Round Rock's wholesale Water rate for Georgetown. Georgetown shall pay the total amount owed to Round Rock by the due date on each bill for Water Service. If Georgetown, in good faith, questions the amount of the bill, Round Rock shall work cooperatively with Georgetown to resolve the issue.

2.06 Effect of Mandatory Water Conservation Measures. Notwithstanding the level(s) of Firm Service determined in this Agreement, Georgetown acknowledges that, if Round Rock institutes mandatory water conservation measures for its customers, the level(s) of Firm Service set forth in this Agreement may be temporarily reduced in accordance with Round Rock's mandatory conservation measures as follows: If Round Rock implements Stage I, the Firm Service shall be reduced by 15%; if Round Rock implements Stage II, the Firm Service shall be reduced by 25%; and if Round Rock implements Stage III, the Firm Service shall be reduced by 50%. . Round Rock shall provide Georgetown 48 hours' written notice of the implementation of a water conversation stage.

**ARTICLE THREE
HIGHLANDS POINT OF DELIVERY**

3.01. Meters. At the Highlands Point of Delivery, there will be two separate meter vaults with standard metering and related facilities, as shown on **Exhibit B**. The primary meter vault will be for the meter to measure the quantity of Water delivered by Round Rock to Georgetown, pursuant to the terms of this Agreement. The secondary meter vault will be for a meter to measure water delivered by Georgetown to Round Rock on an emergency basis, which will be the subject of a separate Interlocal Agreement between Georgetown and Round Rock. Round Rock will be responsible for designing and constructing both vaults, meters, and related facilities. Georgetown shall reimburse Round Rock for one-half of all costs associated with same.

3.02 Level of Firm Service. The Cities agree that the level of Firm Service provided through the Highlands at Mayfield meter shall be 1.0 million gallons per day (MGD). The Cities also agree that the Highlands at Mayfield meter shall be set so that the maximum rate of flow through the meter shall be 695 gallons per minute (GPM).

**ARTICLE FOUR
COUNTY ROAD 175 POINT OF DELIVERY**

4.01. Meter. At the County Road 175 Point of Delivery, there will be one vault with a standard meter and related facilities, as shown on **Exhibit C**. The meter vault will be for a meter to measure the quantity of Water delivered by Round Rock to Georgetown, pursuant to the terms of this Agreement. Round Rock will be responsible for designing and constructing the vault, meter, and related facilities. Georgetown shall reimburse Round Rock for one-half of all costs associated with same.

4.02 Level of Firm Service. The Cities agree that the initial level of Firm Service provided through the County Road 175 Point of Delivery shall be 3.0 MGD. The Cities also agree that the County Road 175 Meter shall be set so that the maximum rate of flow through the meter shall be 2,085 GPM.

**ARTICLE FIVE
WATER RATES**

5.01 Rates for Water Service. The rate for Water Service shall consist of a monthly base charge and a volumetric charge per 1,000 gallons of water delivered to Georgetown.

5.02 Monthly Base Charges.

(a) Highlands at Mayfield. The initial monthly base charge for the water delivered through the Highlands at Mayfield Point of Delivery shall be \$14,510 for each calendar month. The monthly base charge will start June, 2020, or when Georgetown starts taking water at the Highlands at Mayfield Point of Delivery, whichever first occurs.

(b) County Road 175. The initial monthly base charge for the water delivered through the County Road 175 Point of Delivery shall be \$43,530 for each calendar month. The monthly base charge will start June, 2022, or when Georgetown starts taking water at the County Road 175 Point of Delivery, whichever first occurs.

5.03 Volumetric Charge. The initial volumetric charge for water delivered at both points of delivery shall be \$1.16 per 1,000 gallons of water delivered to Georgetown.

5.04 Rate Review and Amendment. The rates set by Round Rock and charged to Georgetown shall be reasonable and may be reviewed and/or amended from time to time and shall be based on a cost of service study performed by Round Rock. Round Rock may include a rate of return in its rates equal to 10 percent of its actual cost. At Georgetown's request, Round Rock agrees to provide Georgetown with a copy of the rate study that derived the new rates. Round Rock agrees to provide Georgetown at least 60 days written notice of an estimated amount of any proposed rate increase. If Round Rock proposes to increase any of the rates set forth in this Agreement, the revised rate(s) shall be adopted by the Round Rock City Council and Round Rock shall promptly provide Georgetown written notice of the adopted rate(s). Georgetown shall have 60 days after the adoption of the revised rate(s) to either accept the increased rates in writing or terminate this Agreement.

ARTICLE SIX AS AVAILABLE SERVICE

6.01. As Available Service. To the extent Water Service is available from the Round Rock system in excess of the Firm Service at one or both Point(s) of Delivery, Georgetown may request via email or phone call to the Round Rock Control Center on a daily basis and, to the extent Round Rock determines such additional water service is available, Round Rock agrees to provide As Available Service to Georgetown at one or both Point(s) of Delivery by adjusting the valve position(s), subject to the conditions set forth in this Section.

6.02. Volumetric Rates for As Available Service. All Water Service at a Point of Delivery which exceeds the approved level of Firm Service determined in accordance with the foregoing procedures shall be considered As Available Service. The volumetric charge for As Available Service shall be \$1.16 per 1,000 gallons delivered to Georgetown.

6.03 Reducing As Available Service. Round Rock may terminate or reduce such As Available Service at any time during the term of this Agreement by providing Georgetown with twenty-four (24) hours written notice of such termination or reduction. Such notice shall be communicated by either telephone or email to Georgetown's Control Center. If the notice is given by telephone, it shall be confirmed by email within 24 hours. Such notice shall contain the following:

- (a) a statement indicating the termination or reduction of As Available Service;
- (b) in the case of a reduction of As Available Service, the estimated amount of the reduction in As Available Service; and

- (c) the estimated duration of such termination or reduction of As Available Service.

ARTICLE SEVEN GENERAL PROVISIONS

7.01. Authority. This Agreement is made pursuant to the authority conferred by V.T.C.A. Government Code, Chapter 791, and V.T.C.A. Local Government Code Secs. 402.001 and 402.017. The limitations stated herein shall not be construed as a delegation by either Georgetown or Round Rock of any governmental authority or power but rather shall be construed as a contractual requirement

7.02. Payments from Current Revenues. All payments, if any, required to be made by a governmental entity hereunder shall be payable from current revenues or other funds lawfully available for such purpose. The obligation of Georgetown to make payments to Round Rock does not constitute a general obligation or indebtedness of Georgetown for which Georgetown is obligated to levy or pledge any form of taxation.

7.03. Force Majeure. If, by reason of Force Majeure (as hereinafter defined), any party shall be rendered wholly or partially unable to carry out its obligations under this Agreement after its effective date, then such party shall give written notice of the particulars of such Force Majeure to the other party or within a reasonable time after the occurrence thereof.

The obligations of the party giving such notice, to the extent affected by such Force Majeure, shall be suspended during the continuance of the inability claimed and for no longer period, and any such party shall in good faith exercise its best efforts to remove and overcome such inability. Payment obligations shall not be considered to be affected by Force Majeure.

The term "Force Majeure" as utilized herein shall mean and refer to acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States, the State of Texas, or any other civil or military authority; insurrections; riots; epidemics; landslides; earthquakes; lightning; fires; hurricanes; storms; floods; washouts; or other natural disasters; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines or canals; or other causes not reasonably within the control of the party claiming such inability.

7.04 Severability. The provisions of this Agreement are severable, and if any part of this Agreement or the application thereof to any person or circumstances is ever held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such part of this Agreement to other persons or circumstances shall not be affected thereby and this Agreement shall be construed as if such invalid or unconstitutional portion had never been contained herein.

7.05 Entire Agreement. This Agreement contains the entire Agreement of the Cities and supersedes all prior or contemporaneous, understandings and representations, whether oral or written, respecting the subject matter hereof.

7.06 Amendments. Any amendment hereof must be in writing and signed by the authorized representative of each party hereto.

7.07. No Amendment of Other Agreements. Unless otherwise expressly stipulated herein, this Agreement is separate from and shall not constitute an amendment or modification of any other agreement between the Cities.

7.08 No Third-Party Beneficiaries. This Agreement shall inure only to the benefit of the Cities and third parties not privy to this Agreement shall not, in any form or manner, be considered a third-party beneficiary of this Agreement.

7.09 Assignment. The rights and obligations of a party arising under this Agreement shall not be assignable.

7.10 Applicable Law. This Agreement shall be construed under and in accordance with Texas law.

7.11 Venue. Venue for any action arising hereunder shall be in Williamson County, Texas.

7.12 Conflict. If there is a conflict between Round Rock's policies, ordinances, or other contracts and this Agreement, the provisions of this Agreement shall control.

7.13 Notices. Notices provided hereunder shall be sufficient if forwarded to the other party by hand-delivery or via U.S. Postal Service, postage prepaid, to the address of the other party shown below:

GEORGETOWN:

Georgetown City Hall
808 Martin Luther King Jr. St.
Georgetown, TX 78626
Attn: Mayor
Telephone: (512) 930-3651
Email: cs@georgetown.org

with copy to:

Georgetown West Side Service Center
5501 Williams Dr.
Georgetown, Texas ~~78767~~ 78628
Attn: Director of Water Utilities
Telephone: (512) 930-2574
Email: GUSControlCenter@georgetown.org

ROUND ROCK:

221 East Main
Round Rock, Texas 78664
Attn: City Manager
Telephone: (512) 218-5410

with copy to:

Stephan L. Sheets
309 E. Main Street
Round Rock, Texas 78664-5264
Telephone: (512) 255-8877

The Parties shall have the right at any time to change their respective addresses by giving written notice of same to the other party.

7.14 Multiple Originals. This Agreement may be executed in multiple originals each of equal dignity.

7.15 Term of Agreement. This Agreement shall be for a term of 10 years from the Effective Date. This Agreement may be renewed or extended by mutual agreement of the Parties in writing for such additional periods as may be approved by the governing bodies of Round Rock and Georgetown.

7.16 Termination. This Agreement may be terminated by mutual agreement of the parties., Round Rock shall have the option of terminating this Agreement any time after five years by giving Georgetown one-year written notice of its exercise of the option. Georgetown shall have the option of terminating this Agreement any time after one year by giving Round Rock one-year written notice of its exercise of the option. Pursuant to Section 5.04 of this Agreement, Georgetown also has the right to terminate this Agreement in response to a rate increase adopted by the Round Rock City Council No later than 30 days before the termination of this Agreement, the Cities will coordinate with each other with regard to the disconnection between Georgetown's and Round Rock's Water system in a manner acceptable to the Cities. Whichever City terminates the Agreement will be responsible for the costs of such disconnection.

7.17 Default. In the event that one party believes that the other party is in default of any of the provisions in this agreement, the non-defaulting party will make written demand to cure to the defaulting party and give the defaulting party up to thirty days to cure the default or, if the curative action cannot reasonably be completed within thirty days, the defaulting party will commence the curative action within thirty days and thereafter diligently pursue the curative action to completion. This period must pass before the non-defaulting party may initiate any remedies available to the non-defaulting party due to such default. The non-defaulting party shall mitigate direct or consequential damages arising from any default to the extent reasonably possible under the circumstances. The parties agree that they will use their best efforts to resolve any disputes and may engage in non-binding arbitration or other alternative dispute resolution methods as recommended by the laws of the State of Texas before initiating any lawsuit to enforce their rights under this agreement. Nothing in this agreement shall be construed to limit either party's right to recover damages or to seek other appropriate curative remedies if a breach of contract action is filed by a non-defaulting party to this Agreement.

7.18 Effective Date. This Agreement shall be effective from and after the ____ day of _____, 2020.

IN WITNESS WHEREOF, the authorized representatives of Round Rock and Georgetown have executed this Agreement as of the date(s) shown below.

CITY OF ROUND ROCK:

ATTEST:

Sara White
Sara White, City Clerk

By: Craig Morgan
Craig Morgan, Mayor

Date: 3.12.2020

ATTEST:

Robyn Densmore
Robyn Densmore, City Secretary

CITY OF GEORGETOWN:

By: Dale Ross
Dale Ross, Mayor

Date: March 24, 2020

APPROVED AS TO FORM:

By: Charlie McNabb
Charlie McNabb, City Attorney

Date: March 25, 2020

Date: 7/12/2019



WATERLINES

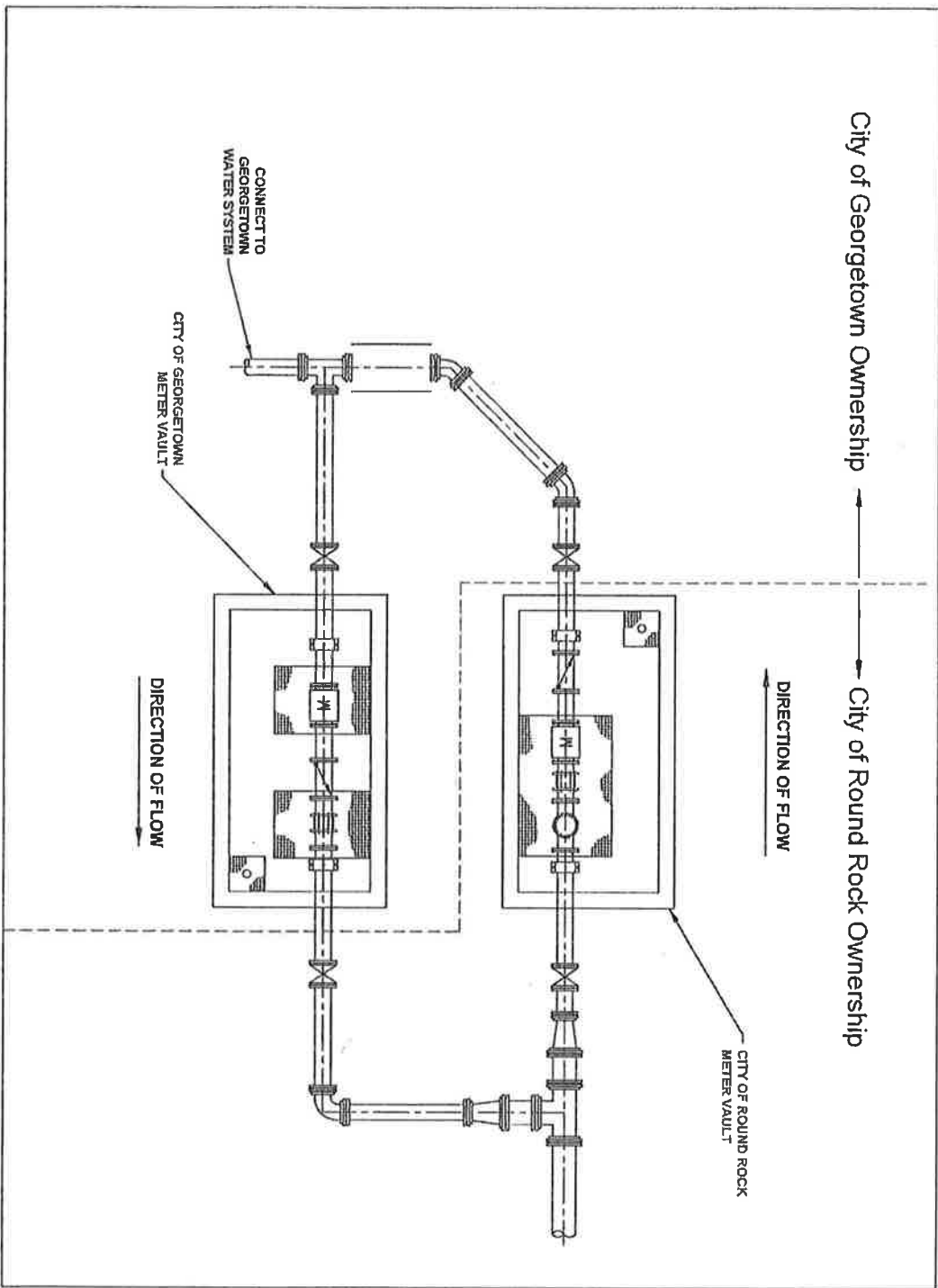
POINT OF DELIVERY LOCATION MAP




EXHIBIT

"A"



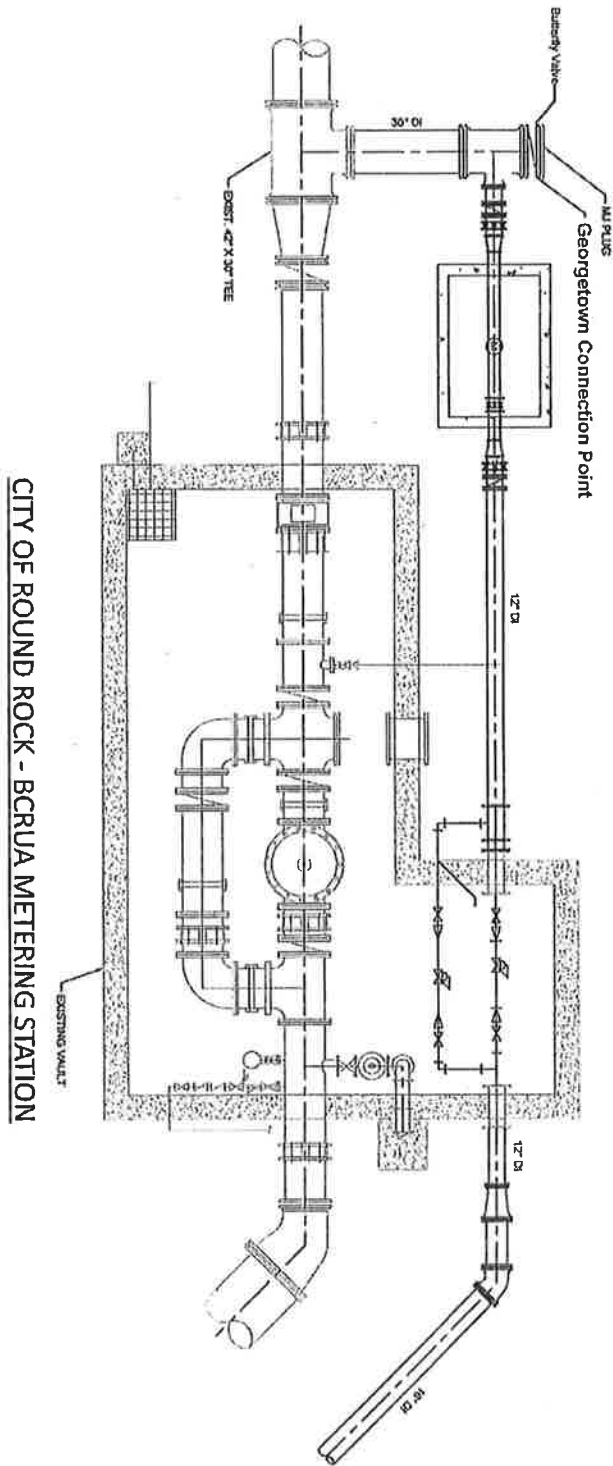


Highlands Point of Delivery

 <p>ROUND ROCK TEXAS <small>ROUND ROCK TEXAS WATER UTILITY</small></p>	<p>Project: Delivery Date: 6/19/2019 User: N/A</p>
<p>Project Name and Address</p>	<p>2</p>

EXHIBIT

"B"



CITY OF ROUND ROCK - BCRVA METERING STATION

Note 1 - Point of Delivery for Georgetown to be after the 30-inch bursty valve. Georgetown will be responsible for installing a new water meter after the connection point.

County Road 175
Point of Delivery

Project/Contract 6/13/2019 No. 10000	1
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Date 	Author/Drawn 	Date
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EXHIBIT

"C"