



Amended City of Hutto

Agenda

City Council Meeting
Thursday, August 6, 2020 at 7:00 PM
City Council Chambers

In accordance with the Texas Open Meetings Act this meeting agenda is posted for public information, continuously, for at least 72 hours prior to the scheduled time of the meeting on the bulletin board located on the exterior wall of the City Hall building at 500 West Live Oak, Hutto, Texas. This meeting agenda is also accessible via the Internet at www.huttotx.gov

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1. CALL SESSION TO ORDER
2. ROLL CALL
3. INVOCATION
4. PLEDGE OF ALLEGIANCE
5. CITY COUNCIL COMMENTS

Pursuant to Texas Government Code Sec. 551.0415, a member of the governance body may make an announcement about items of community interest during a meeting of the governing body without given notice of the subject of the announcement. Items of Community Interests include: (1) expressions of thanks, congratulations, or condolence; (2) information regarding holiday schedule; (3) an honorary or salutary recognition of public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition of the subdivision; (4) a reminder regarding social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and (5) announcements involving imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.

5.1. General Comments from City Council

5.2. City Council Commission Liaison Reports

6. PUBLIC COMMENT

Any citizen wishing to speak during public comment may do so after completing the required registration form. The purpose of this item is to allow the residents of Hutto and other interested persons an opportunity to address the City Council on agenda issues and on non-agenda issues that are a matter of the jurisdiction of the City Council (i.e., City policy or legislative issues). Non-agenda issues regarding daily operational or administrative matters should be first dealt with at the administrative level by calling City Hall at (512) 759-4839 during business hours. Each person providing public comment will be limited to 3 minutes.

Any citizen wishing to speak during public comment may do so after completing the required registration form. Comments for this meeting may also be sent to comments@huttotx.gov PRIOR to 4:00 pm on August 6, 2020. The email must include name, address, phone # and email to be recognized properly.

Citizens wishing to comment by phone may call:

Toll Free Call In: 1-800-717-4201

Conference ID: 242-3288

Once you are in the conference call press *5 to signal that you are requesting to speak during public comment.

[Note: The Texas Open Meetings Act, Texas Government Code, Chapter 551, prohibits the City Council from fully discussing, debating, or considering subjects for which public notice has not been given on the agenda. Issues that cannot be referred to the City Staff for action may be placed on the agenda of a future City Council Session.]

7. CITY MANAGER COMMENTS

8. CONSENT AGENDA ITEMS

8.1. Consideration of a public hearing and possible action on the second reading of Ordinance No. O-2020-020 approving the zoning change request for the properties to be known as the Wahrmond/Dugger Tracts (3 tracts), 3.710 acres, more or less, of land, from SF-1 (Single Family Residential) to B-2 (General Commercial) zoning district, located on the northwest corner of Limmer Loop and CR 119. (Ashley Lumpkin)

8.2. Discuss and take action adopting an Ordinance amending the City of Hutto Code of Ordinances by amending Article 2.07 Claims Against the City.

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[Ordinance No. O-2020-026 Amending Article 2.07 Notice of Claims](#)

9. ORDINANCES

9.1. Consideration and possible action on the first reading of Ordinance No. O-2020-018 approving a Community Development Corporation budget amendment and expenditure approved by the Community Development Corporation Board of Directors in the amount of \$300,000 to fund program administration and loans made available through the Small Business Loan and Disaster Relief Project and \$50,000 to fund General Counsel legal services to the Corporation; providing an effective date.

12 - 14

[O-2020-018 CC Budget Amend Project + Legal Counsel \(002\)](#)

9.2. Consideration and possible action on the first reading of Ordinance No. O-2020-023 approving a Community Development Corporation budget amendment and Expenditure approved by the Community Development Corporation Board of Directors increasing the general counsel legal services line item by \$50,000, from \$5,000 to \$55,000; providing an effective date.

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[O-2020-023 CC Approval Budget Amendment Legal Counsel](#)

9.3. Consideration and possible action on the first reading of Ordinance No. O-2020-024 granting to Oncor Electric Delivery Company, LLC, its successors and assigns, an electric power franchise to use the present and future streets, alleys, highways, public utility easements, and public ways of the City of Hutto, Texas, providing for compensation therefor, providing for an effective date and a term of said franchise, providing for written acceptance of this franchise, providing for the repeal of all existing

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franchise ordinances to Oncor Electric Delivery Company LLC, its predecessors and assigns, and finding that the meeting at which this ordinance is passed is open to the public; and providing for severability. (First Reading) (City Attorney)

[Hutto Proposed Electric Franchise 3-5-2020 B Oncor 8-6-2020 FINAL](#)

10. RESOLUTIONS

- 10.1. Consideration and possible action on Resolution No. R-2020-067 for the first of two readings as required by Texas Local Government Code Section 501.158(b) approving a Resolution authorizing the Community Development Corporation's Small Business Loan and Disaster Relief Project. 31 - 37

[Resolution No. R-2020-067 CC Approval Small Business and Disaster Relief Project](#)

- 10.2. Consideration and possible action on Resolution No. R-2020-067 for the second of two readings as required by Texas Local Government Code Section 501.158(b) approving a Resolution authorizing the Community Development Corporation's Small Business Loan and Disaster Relief Project. 38 - 44

[Resolution No. R-2020-067 CC Approval Small Business and Disaster Relief Project](#)

- 10.3. Consideration and possible action on Resolution No. R-2020-068 creating a Public Improvement District for an approximate 105 acre property, also known as Durango Farms. 45 - 54

[Resolution No. R-2020-068 for PID Creation Durango Farms Final 8 5 20](#)

- 10.4. Consideration and possible action on Resolution No. R-2020-069 for a Development Agreement amendment between the City of Hutto and Jerry Wayne Roznovak and Nadine Carole Johnson, for a property being approximately 105 acres, also known as Durango Farms. 55 - 82

[Durango Farms Amended and Restated Development Agreement FINAL 08.04.20](#)

- 10.5. Consideration and possible action on Resolution No. R-2020-070 for a Development Agreement between the City of Hutto and Kalogridis and Kalogridis Development, LLC, for an approximately 56.797 acre property, also known as The Landing.

11. OTHER BUSINESS

- 11.1. Discussion regarding the rejection of the application of Nicole Calderone for place on ballot council place 4. (Councilmember T. Rose)
- 11.2. Discussion and possible action on canceling or removing the ability to use video conferencing access to meetings going forward. (Councilmember T. Rose)

12. EXECUTIVE SESSION

The City Council for the City of Hutto reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above as authorized by the Texas Government Code Sections 551.071 [Litigation/Consultation with Attorney], 551.072 [Deliberations regarding real property], 551.073 [Deliberations regarding gifts and donations], 551.074 [Deliberations regarding personnel matters] or

551.076 [Deliberations regarding deployment/implementation of security personnel or devices] and 551.087 [Deliberations regarding Economic Development negotiations].

- 12.1. Discussion and deliberation regarding a potential relocation project to the City of Hutto #1 551.087 [Deliberations regarding Economic Development negotiations].(Jennifer Burrington)
- 12.2. Discussion and deliberation regarding a potential relocation project to the City of Hutto #2 551.087 [Deliberations regarding Economic Development negotiations].(Jennifer Burrington)
- 12.3. Receive legal advice pursuant to Texas Government Code Section 551.071(1) and (2) relating to the Hutto Sports, Health and Entertainment District; the Multi-Party Development Agreement; the Preston Hollow Capital, LLC Loan Agreement with Cottonwood Development Corporation and deliberations regarding Economic Development pursuant to Tex. Govt. Code § 551.087; and deliberate the purchase or sale of real property within the Hutto Sports, Health and Entertainment District pursuant to Texas Government Code Section 551.072.

13. ACTION RELATIVE TO EXECUTIVE SESSION

- 13.1. Discussion and possible action relating to legal advice pursuant to Texas Government Code Section 551.071(1) and (2) relating to the Hutto Sports, Health and Entertainment District; the Multi-Party Development Agreement; the Preston Hollow Capital, LLC Loan Agreement with Cottonwood Development Corporation and deliberations regarding Economic Development pursuant to Tex. Govt. Code § 551.087; and deliberate the purchase or sale of real property within the Hutto Sports, Health and Entertainment District pursuant to Texas Government Code Section 551.072.

14. ADJOURNMENT

15. CERTIFICATION

I certify that this notice of the **August 6, 2020** Hutto City Council meeting was posted on the City of Hutto website and the City Hall bulletin board of the City of Hutto on July 31, 2020at **5:00 P.M.** **Amended and reposted on 8/3/20 @12:30 PM**



Holly Nagy

The City of Hutto is committed to comply with the Americans Disability Act. The Hutto City Council Chamber is wheelchair accessible. Request for reasonable special accommodations must be made 48 hours prior to the meeting. Please email the City

Secretary's office at City.Secretary@huttox.gov or call (512) 759-4033 for assistance.

ORDINANCE NO. O-2020-026

**AN ORDINANCE AMENDING CHAPTER 2:
ADMINISTRATION AND PERSONNEL, OF THE CITY OF
HUTTO'S CODE OF ORDINANCES, TO AMEND ARTICLE
2.07 CLAIMS AGAINST THE CITY; AND PROVIDING FOR
EFFECTIVE DATE, PUBLICATION, SEVERABILITY,
REPEAL, OPEN MEETINGS CLAUSE AND ENACTMENT.**

WHEREAS, the City has determined that Article 2.07 Claims Against the City needs to be amended to provide for more detailed and additional notice provisions; and

WHEREAS, the City Council of the City of Hutto, Texas, finds it to be in the best interest of the public safety, health and general welfare of the City to amend Article 2.07.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUTTO, TEXAS:

SECTION I.

The findings set forth above are incorporated into the body of this ordinance as if fully set forth herein.

SECTION II.

That Article 2.07, Claims Against the City, of the Code of Ordinances of the City of Hutto, is hereby amended so to read in accordance with Attachment "A", which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any underlined text shall be inserted into the Code and any bracketed text shall be deleted from the Code, as stated on Attachment "A".

SECTION III. Publication Clause

The City Secretary of the City of Hutto is hereby authorized and directed to publish the caption of this ordinance in the manner and for the length of time prescribed by law.

SECTION IV. Severability Clause

The provisions of this ordinance are severable, and if any sentence, section, or other parts of this ordinance should be found to be invalid, such invalidity shall not affect the remaining provisions, and the remaining provisions shall continue in full force and effect.

SECTION V. Repealing Clause

All ordinances and resolutions and parts thereof in conflict herewith are hereby expressly repealed insofar as they conflict.

SECTION VI. Open Meetings Clause

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

SECTION VII. Effective Date

This ordinance shall take effect and be in force from and after the date of the second publication of the ordinance in the official newspaper of the City of Hutto.

City Charter Sec. 3.13, Ordinances in General, the requirements for reading on two separate days was dispensed with by affirmative vote of all the City Council members present. Motion made by _____ to dispense with second reading. Motion seconded by _____.
(Record the vote)

Adopted by the City Council for the City of Hutto, Texas, on first reading on the 6th day of August, 2020.

THE CITY OF HUTTO, TEXAS

By: _____
Doug Gaul, Mayor

By: _____
Holly Nagy, City Secretary

(SEAL)

Attachment "A"

ARTICLE 2.07 CLAIMS AGAINST CITY

Sec. 2.07.001 Notice required for certain tort claims

(a) The city shall never be liable for any claim for property damage or for personal injury, nor subject to suit thereon in any court, whether such personal injury results in death or not, unless the person damaged or injured, or otherwise harmed or prejudiced or someone in his or her behalf, or, in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death or injury, shall, within sixty (60) days for good cause shown from the date the damage, injury, harm or other prejudice was ~~received~~ incurred, give notice in writing to the mayor and city council of the following facts, and such notice is a jurisdictional prerequisite to and precondition of any suit against the city or any council member, officer, employee, or other agent of the city upon such claim:

(1) The ~~dates and times~~ when the damage, injury, harm or other prejudice (together, "Prejudice") ~~injury occurred~~ and of any aggravation thereof, and the places where the injured person or property was at the time when ~~the injury was received~~ the Prejudice or aggravation occurred.

(2) The nature of the ~~damage or injury~~ Prejudice incurred ~~sustained~~.

(3) The apparent extent of the ~~damage or injury~~ Prejudice incurred, ~~sustained~~.

(4) A specific and detailed statement of how and under what circumstances the ~~damage or injury~~ Prejudice occurred.

(5) The dollar value claimed, and an explanation of how that value was determined.

~~(6)~~ The amount for which each claimant will settle.

~~(67)~~ The actual place of residence of each claimant by street, number, city and state on the date it is presented.

~~(78)~~ In case of personal injury, including mental anguish, or death, the names and addresses of all persons who, according to the knowledge or information of the claimant, witnessed the happening of the ~~injury event causing the injury or death~~ or any part thereof and the names and addresses of the doctors or other medical practitioners, if any, to whose care the injured person ~~is~~ committed.

~~(89)~~ In case of property damage, the location of the damaged property at the time the claim was submitted along with the names and addresses of all persons who witnessed the ~~happening of events causing~~ the damage or any part thereof.

Sec. 2.07.002. Notice required for certain breach of contract claims.

(a) In this section:

(1) CITY CONTRACT or CONTRACT means a written contract that is properly executed or entered into by the city.

(2) DIRECTOR means the director of the city department that is responsible for administering the city contract that is the subject of a claim filed pursuant to this section, or the director's designee.

(3) PERSON means an individual, corporation, partnership, professional corporation, limited liability company, or any other legally constituted and existing business entity, other than the city.

(b) This section applies to any alleged breach of contract by the city occurring on or after August 31, 2020.

(c) A person may not file or maintain a lawsuit or alternative dispute resolution proceeding to recover damages for the city's breach of a city contract unless, as a condition precedent and a jurisdictional prerequisite to the filing of the lawsuit or proceeding:

(1) the person files a notice of claim with the city manager in writing, in the form prescribed in Subsection (d) of this section, not later than 180 days after the date of occurrence of the event that gives rise to the breach of contract claim; and

(2) the city council, or the city manager in the case where a change order or contract amendment may be authorized by administrative action or administrative change order, neglects or refuses to pay all or part of the claim on or before the 90th day after the date of presentation of written notice in accordance with this section.

(d) The written notice of claim required under Subsection (c) must:

(1) state the facts giving rise to the alleged breach;

(2) state the legal theory justifying recovery for the alleged breach;

(3) state the amount the person seeks in damages; and

(4) include supporting documentation indicating how those damages were calculated.

(e) The city attorney is authorized to investigate, evaluate, and recommend settlement or disposition of any breach of contract claim made against the city pursuant to this section.

(f) The city manager and the director shall assist the city attorney in the investigation, evaluation, and recommendation processes related to the settlement and disposition of a breach of contract claim made against the city pursuant to this section.

(g) The delegation of authority conferred under Subsection (e) or (f) does not include the authority to waive any requirements of this section.

(h) Nothing in this section supersedes, modifies, or excuses compliance with any other requirement for notices established by any city contract, law, or equity.

(i) A person filing a claim under this section is not entitled to recover attorney's fees, either as a part of the damages calculated in the notice of claim or in any subsequent lawsuit or alternative dispute resolution proceeding.

(j) Nothing in this section may be construed as waiving the city's governmental immunity from suit or from liability.

(k) The provisions of this section are incorporated by reference into all existing and future city contracts.

(l) The city manager may, with the concurrence of the city attorney, elect to treat a notice received pursuant to this section as a demand for nonbinding mediation. If the city manager treats the notice as a demand for nonbinding mediation, the city manager shall, within a reasonable time, notify the person filing the claim of that election and of the applicable procedures to be followed, including allocation of mediation expenses. The notice of nonbinding mediation extends by 60 days the applicable period for responding to a claim notice set forth in Subsection (c)(2).

Sec. 2.07.002 —003 Filing of notice

All notices to the mayor, city council, or city manager required by this article shall be effectuated by serving them upon the city managercity secretary at the following location: 401 West Front500 West Live Oak Street, Hutto, Texas 78634, and all such notices shall be effective only when actually received in the office of the person named abovecity secretary. (2007 Code, sec. 1.02.062)

—Sec. 2.07.003—Waiver of notice requirements

(a) The above written notice requirements shall be waived if the city has actual knowledge of death, injury or property damage likely to result in a claim against the city. The city shall not be deemed to have actual knowledge unless that knowledge is attributable to an appropriate city official whose job duties include the authority to investigate and/or settle claims against the city.

(b) Notice requirements shall likewise be waived in cases in which the plaintiff can demonstrate good cause or civil rights violations.

(2007 Code, sec. 1.02.063)

Sec. 2.07.004 Oath of claimant

The written notices required under this article shall be sworn to by the person claiming the damage or injuries or by someone authorized by him to do so on his or her behalf. Failure to swear to the notice as required herein shall not render the notice fatally defective, but failure to so verify the notice may be considered by the city council as a factor relating to the truth of the allegations and to the weight to be given to the allegations contained therein. (2007 Code, sec. 1.02.064)

ORDINANCE NO. O-2020-018

AN ORDINANCE OF THE CITY OF HUTTO, TEXAS APPROVING THE COMMUNITY DEVELOPMENT CORPORATION BUDGET AMENDMENT AND EXPENDITURE APPROVED BY THE COMMUNITY DEVELOPMENT CORPORATION BOARD OF DIRECTORS IN THE AMOUNT OF \$300,000 TO FUND PROJECT ADMINISTRATION AND LOANS MADE AVAILABLE THROUGH THE SMALL BUSINESS LOAN AND DISASTER RELIEF PROJECT AND \$50,000 TO FUND GENERAL COUNSEL LEGAL SERVICES TO THE CORPORATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council finds the City of Hutto is the authorizing unit of the Community Development Corporation and holds the statutory authority to approve all appropriations and expenditures of the Corporation, and

WHEREAS, the City Council finds that in 2019 the Board of Directors with City Council approval established a small business loan project; and

WHEREAS, the City Council finds that due to its popularity and its ability to meet local needs, the initial small business loan project exhausted its appropriated and approved funding; and

WHEREAS, the City Council finds that in 2020 the Board of Directors approved appropriating \$300,000 of additional funding for the project; and

WHEREAS, the City Council finds that at the time the additional funding was initially presented to the City Council for approval, the City's legal counsel identified irregularities in the way the initial project was established; and

WHEREAS, the City Council finds that the Board of Directors have set aside the initial project and redeveloped a new substitute project titled the Small Business Loan and Disaster Relief Project; and

WHEREAS, the City Council finds that all applicable public hearings and public approvals have been or will be completed prior to the expenditure of funds appropriated herein; and

WHEREAS, the City Council finds that in accordance with the City Attorney's recommendation and further, to avoid irregularities in the Corporation's projects, the Board has engaged its own General Counsel to provide legal services to the Board to ensure properly established projects for the Board; and

WHEREAS, the City Council finds that the Board of Directors engaged General Counsel effective May 26, 2020 and has a legal obligation to pay for such legal services in the course of doing business for the rest of the budget year which will greatly exceed the currently budgeted amount for such services.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUTTO, TEXAS:

SECTION I

That the appropriations for the fiscal year October 1, 2019 through September 30, 2020 for the support of the Community Development Corporation be fixed and determined for said terms in accordance with the expenditures shown in the CDC's 2020 fiscal year budget.

SECTION II

That the budget is hereby approved in all respects and adopted as the City's budget for the fiscal year October 1, 2019 through September 30, 2020.

SECTION III. Publication Clause

The City Secretary of the City of Hutto is hereby authorized and directed to publish the caption of this ordinance in the manner and for the length of time prescribed by the law.

SECTION IV. Severability Clause

The provisions of this ordinance are severable, and if any sentence, section, or other parts of this ordinance should be found to be invalid, such invalidity shall not affect the remaining provisions, and the remaining provisions shall continue in full force and effect.

SECTION V. Repealing Clause

All ordinances and resolutions and parts thereof in conflict herewith are hereby expressly repealed insofar as they conflict.

SECTION VI. Open Meeting Clause

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

SECTION VII.

This ordinance shall take effect and be in force from and after its passage.

READ and APPROVED on first reading on this the 6th of August 2020, at a regular meeting of the City Council of the City of Hutto, there being a quorum present.

READ and APPROVED and ADOPTED on second and final reading this 6th day of August 2020, at a regular meeting of the City Council of the City of Hutto, there being a quorum present.

THE CITY OF HUTTO, TEXAS

Doug Gaul, Mayor

ATTEST:

Holly Nagy, City Secretary

**CITY OF HUTTO, TEXAS
ORDINANCE NO. O-2020-023**

**AN ORDINANCE OF THE CITY OF HUTTO, TEXAS
APPROVING THE COMMUNITY DEVELOPMENT
CORPORATION BUDGET AMENDMENT AND EXPENDITURE
APPROVED BY THE CORPORATION BOARD OF DIRECTORS,
INCREASING THE GENERAL COUNSEL LEGAL SERVICES
LINE ITEM BY \$50,000, FROM \$5000 TO \$55,000; PROVIDING
AN EFFECTIVE DATE.**

WHEREAS, the City Council finds the City of Hutto is the authorizing unit of the Community Development Corporation and holds the statutory authority to approve all expenditures of the Corporation.

WHEREAS, the City Council finds that in accordance with the City Attorney's recommendation and further, to avoid irregularities in the Corporation's projects and operations, the Board engaged its own General Counsel to provide legal services to the Board to ensure properly established projects and operations of the Board; and

WHEREAS, the City Council finds that the Board of Directors engaged General Counsel effective May 26, 2020 and has a legal obligation to pay for such legal services in the course of doing business for the rest of the budget year which will greatly exceed the currently budgeted amount for such services.

WHEREAS, the City Council finds that the Board of Directors approved by unanimous vote to amend their FY2020 budget and expenditures by \$50,000 to \$55,000 for General Counsel legal services and submit the budget and expenditures for approval.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF HUTTO, TEXAS:**

Section 1: That recitals above are hereby true and correct and are incorporated into this resolution.

Section 2: The Corporate budget is amended from \$5,000 to \$55,000 for General Counsel legal services and such expenditures are approved.

CONSIDERED and RESOLVED by the City Council of the City of Hutto on this the _____ day of _____ 2020.

THE CITY OF HUTTO, TEXAS

Doug Gaul, Mayor

ATTEST:

Holly Nagy, City Secretary

ORDINANCE NO. O-2020-024

AN ORDINANCE OF THE CITY OF HUTTO, TEXAS, GRANTING TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC POWER FRANCHISE TO USE THE PRESENT AND FUTURE STREETS, ALLEYS, HIGHWAYS, PUBLIC UTILITY EASEMENTS, PUBLIC WAYS AND PUBLIC PROPERTY OF THE CITY OF HUTTO, TEXAS, PROVIDING FOR COMPENSATION THEREFOR, PROVIDING FOR AN EFFECTIVE DATE AND A TERM OF SAID FRANCHISE, PROVIDING FOR WRITTEN ACCEPTANCE OF THIS FRANCHISE, PROVIDING FOR THE REPEAL OF ALL EXISTING FRANCHISE ORDINANCES TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS PREDECESSORS AND ASSIGNS, AND FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC; AND PROVIDING FOR SEVERABILITY.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUTTO, TEXAS:

SECTION 1. GRANT OF AUTHORITY:

A. That there is hereby granted to Oncor Electric Delivery Company LLC, its successors and assigns (herein called "Company"), the right, privilege and franchise to construct, extend, maintain and operate in, along, under and across the present and future streets, alleys, highways, public utility easements, public ways and other public property ("Public Rights-of-Way" or "Rights-of-Way") of the City of Hutto, Texas (herein called "City") electric power lines, with all necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, telephone and communication lines and other structures for Company's own use), (herein called "Facilities") for the purpose of delivering electricity to the City, the inhabitants thereof, and persons, firms and corporations beyond the corporate limits thereof, for the term set out in Section 9. All poles, towers and other structures must be reasonably required for electric distribution and transmission purposes and not primarily for providing facilities for third-parties or other uses.

B. Upon reasonable request by the City, Company shall provide information to the City Council and shall attend City Council meetings to discuss Company's performance of its obligations and responsibilities under this Franchise.

C. Company shall not install, construct or extend any Facilities in City parks or City-owned property other than public utility easements, streets, alleys or highways without first obtaining written approval from City.

D. Company may not use any portion of its Facilities in the City Public Rights-of-Way for any purpose other than the delivery of electric service (or in support of Company's Distribution and Transmission System), including renting, licensing or otherwise sharing use of facilities with third parties, including third parties receiving electric service, without first entering into a separate agreement for Company ancillary service.

E. Company agrees to notify other persons, firms, or corporations that desire to attach facilities to Company's Electric Distribution and Transmission System located within the City that they have a responsibility to obtain all legally required franchises, licenses, waivers, consents, easements, rights of way, and permits needed to construct and operate its equipment within the City. However, in no event is Company responsible or liable to City or any other person or entity if the persons, firms, or corporations that desire to attach to Company's Electric Distribution and Transmission System fails to obtain anything required by City. City may request a list of persons or corporations who have a contract to attach facilities to Oncor equipment within the City limits, and Oncor shall provide such information within a reasonable time after the City's request.

SECTION 2. PURPOSE.

The provisions set forth in this ordinance represent the terms and conditions under which Company shall construct, operate, and maintain Company Facilities in the City Public Rights-of-Way of the City. In granting this franchise agreement, City does not in any manner surrender or waive its regulatory or other rights and powers under and by virtue of the Constitution and statutes of the State of Texas as the same may be amended, or any of its rights and powers under or by virtue of present or future ordinances of the City, as may be amended from time to time, except as may be set out herein. Company also retains all of its lawful authority and rights under the Public Utility Regulatory Act (PURA) and any other applicable laws, rules, and regulations. Not included in this franchise agreement are any facilities (including any equipment attached in any way to Company's facilities, whether owned by Company or not) that provide data delivery, cable service, telephone service, or any other service or product not required by Company for, or in support of, the transmittal and delivery of electricity.

SECTION 3. OPERATION, CONSTRUCTION, AND MAINTENANCE OF ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM.

A. In constructing, maintaining and operating the Electric Distribution and Transmission System, Company shall act in a good and workmanlike manner.

B. Use of the City Public Rights-of-Way by Company shall be governed by all applicable local, state, and federal laws, rules, and regulations, including any amendments thereto.

C. The City reserves the right to lay, and permit to be laid, storm, sewer, gas, water, wastewater and other pipe lines, cables, and conduits, or other improvements and to do and permit to be done any underground or overhead work that may be necessary or proper, in the sole judgement of the City, in, across, along, over, or under City Public Rights-of-Way occupied by Company. The City also reserves the right to change in any manner any curb, sidewalk, highway, alley, public way, street, utility lines not owned by Company, storm sewers, drainage basins, drainage ditches, and the like.

D. The City shall endeavor to provide Company with reasonable notice and opportunity to review and comment upon any new or revised City laws, rules, or regulations that impact Company's use of the City Public Rights-of-Way, but the failure to do so shall not affect the applicability of such laws, rules, or regulations as to Company. This Franchise shall in no way affect or impair the

rights, obligations, or remedies of the parties under PURA, or other state or federal law, rules, or regulations. Nothing herein shall be deemed a waiver, release or relinquishment of either party's right to contest, appeal, or file suit with respect to any action or decision of the other party, including ordinances adopted by the City that Company may believe are contrary to any federal, state, or local law, rules, or regulations

E. Company shall cooperate with the City by providing reasonable information regarding the location of current and future overhead and underground wires and poles within the City Public Rights-of-Way. Reproducible copies of available maps showing the location of all overhead and underground wires and poles within the City Public Rights-of-Way shall be furnished to City Engineer upon request. The maps shall be provided in electronic digital format, if available. Parties may agree to other formats.

F. Company shall have in place a vegetation management program and shall provide City with a current copy of same, upon request. Company will conduct its tree trimming activities in accordance with: (i) its Vegetation Management Plan, as amended and filed with the Texas Public Utility Commission under Substantive Rule 25.96, and (ii) its related Distribution Vegetation Management Program and Guidelines, which may be amended by Company from time to time and Company will address concerns or complaints with regard to its tree trimming activities within the City upon reasonable request by City. Except in emergency situations or in response to outages, Company shall notify affected property owners and the City prior to beginning planned tree trimming activities. If the City requests a current copy of Company's Vegetation Management Guidelines, release of said guidelines shall be pursuant to Company's confidential protection process identified in Section 8.E.

G. City shall provide Company with at least thirty (30) calendar days' notice when requesting Company to relocate facilities and shall specify a new location for such facilities along the City Public Rights-of-Way. Company shall, except in cases of emergency conditions or work incidental in nature, obtain a permit, if required by City ordinance, prior to performing work in the City Public Rights-of-Way, except in no instance shall Company be required to pay fees or bonds related to its use of the City Public Rights-of-Way, despite the City's enactment of any ordinance providing the contrary.

H. Company shall construct its facilities in conformance with the applicable provisions of the National Electrical Safety Code (NESC) or such comparable standards that Company is required by law to adopt. The Company shall restore at the Company's expense, all work within the City Public Rights-of-Way, to a condition equally as good as it was immediately prior to being disturbed by Company's construction, excavation, repair or removal or to a condition agreed upon by City and Company. If City or Company believes that there are extenuating circumstances that do not allow for restoration of all work within the City Rights-of-Way to a condition equally as good as it was immediately prior to being disturbed by Company, City and Company will negotiate an alternative restoration plan (in writing) to remedy the situation. Absent an agreement to an alternative restoration plan, either party has a right to request review of the matter by any court or regulatory agency having jurisdiction.

I. City-requested relocations of Company facilities in the City Public Rights-of-Way shall be at

the Company's sole expense; provided however, if the City is the end use Retail Customer (customer who purchases electric power or energy and ultimately consumes it) requesting the removal or relocation of Company Facilities for its own benefit, or the project requiring the relocation is solely aesthetic/beautification in nature, it will be at the total expense of the City. Provided further, if the relocation request includes, or is for, the Company to relocate above-ground facilities to an underground location, City shall be fully responsible for the additional cost of placing the facilities underground.

J. If any other corporation or person (other than City) requests Company to relocate Company facilities located in City Rights-of-Ways, the Company shall not be bound to make such changes until such other corporation or person shall have undertaken, with good and sufficient bond, to reimburse the Company for any costs, loss, or expense which will be caused by, or arises out of such change, alteration, or relocation of Company's Facilities. City may not request the Company to pay for any relocation which has already been requested, and paid for, by any entity other than City.

K. If City abandons any City Public Rights-of-Way in which Company has facilities, such abandonment shall be conditioned on Company's right to maintain its use of the former Public Rights-of-Way, and on the obligation of the party to whom the City Public Rights-of-Way is abandoned to reimburse Company for all removal or relocation expenses if Company agrees to the removal or relocation of its facilities following abandonment of the City Public Rights-of-Way. If the party to whom the City Public Rights-of-Way is abandoned requests the Company to remove or relocate its facilities and Company agrees to such removal or relocation, such removal or relocation shall be done within a reasonable time at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another City Public Rights-of-Way, the expense of any right-of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation.

L. Company will assure that its Facilities shall be so erected as not to unreasonably interfere with traffic over streets, alleys, highways and shall not unreasonably interfere with pedestrians or violate the Americans with Disabilities Act, including existing or future amendments thereto.

M. City shall have the ability at any time to require Company to repair, remove or abate any distribution pole, wire, cable, or other distribution structure in City's Public Rights-of-Way that is determined to be unnecessarily dangerous to life or property. After receipt of notice, Company shall cure said dangerous condition within a reasonable time or provide City with facts defending its position that said condition is not a condition that is unnecessarily dangerous to life or property. In the event City finds that Company has not sufficiently addressed said dangerous condition by either of the aforementioned methods, City shall be entitled to immediately exercise the remedies in Section 11. Company also retains all of its rights and remedies in Section 11 and under any applicable laws, rules and regulations; including the right to have any City action or decision be reviewed by any agency or court having jurisdiction.

SECTION 4. INDEMNIFICATION

A. IN CONSIDERATION OF THE GRANTING OF THIS FRANCHISE, COMPANY SHALL, TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, AND AT ITS SOLE COST AND EXPENSE, INDEMNIFY AND HOLD THE CITY, AND ITS PAST AND PRESENT OFFICERS, AGENTS AND EMPLOYEES HARMLESS FROM AND AGAINST ANY AND ALL LIABILITY ARISING FROM SUITS, ACTIONS OR CLAIMS REGARDING INJURY OR DEATH TO ANY PERSON OR PERSONS, OR DAMAGES TO ANY PROPERTY ARISING OUT OF OR OCCASIONED BY THE INTENTIONAL AND/OR NEGLIGENT ACTS OR OMISSIONS OF COMPANY OR ANY OF ITS OFFICERS, AGENTS, OR EMPLOYEES IN CONNECTION WITH COMPANY'S CONSTRUCTION, MAINTENANCE AND OPERATION OF COMPANY'S SYSTEM IN THE CITY PUBLIC RIGHTS-OF-WAY, INCLUDING ANY COURT COSTS, REASONABLE EXPENSES AND REASONABLE DEFENSES THEREOF.

B. THIS INDEMNITY SHALL ONLY APPLY TO THE EXTENT THAT THE LOSS, DAMAGE OR INJURY IS ATTRIBUTABLE TO THE NEGLIGENCE OR WRONGFUL ACT OR OMISSION OF THE COMPANY OR ITS OFFICERS, AGENTS OR EMPLOYEES, AND DOES NOT APPLY TO THE EXTENT SUCH LOSS, DAMAGE OR INJURY IS ATTRIBUTABLE TO THE NEGLIGENCE OR WRONGFUL ACT OR OMISSION OF THE CITY OR THE CITY'S OFFICERS, AGENTS, OR EMPLOYEES OR ANY OTHER PERSON OR ENTITY. THIS PROVISION IS NOT INTENDED TO CREATE A CAUSE OF ACTION OR LIABILITY FOR THE BENEFIT OF THIRD PARTIES BUT IS SOLELY FOR THE BENEFIT OF COMPANY AND THE CITY.

C. IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF BOTH COMPANY AND THE CITY, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY BETWEEN THE CITY AND COMPANY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY OF THE DEFENSES OF THE PARTIES UNDER TEXAS LAW. FURTHER, IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF BOTH COMPANY AND THE CITY, RESPONSIBILITY FOR ALL COSTS OF DEFENSE SHALL BE APPORTIONED BETWEEN THE CITY AND COMPANY BASED UPON THE COMPARATIVE FAULT OF EACH.

D. IN FULFILLING ITS OBLIGATION TO DEFEND AND INDEMNIFY CITY, COMPANY SHALL HAVE THE RIGHT TO SELECT DEFENSE COUNSEL, SUBJECT TO CITY'S APPROVAL, WHICH WILL NOT BE UNREASONABLY WITHHELD. COMPANY SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS FRANCHISE. IF COMPANY FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND COMPANY SHALL BE LIABLE FOR ALL REASONABLE DEFENSE COSTS INCURRED BY CITY, EXCEPT AS OTHERWISE PROVIDED IN SECTION 4.B AND 4.C.

SECTION 5. LIABILITY INSURANCE

- A. Company shall, at its sole cost and expense, obtain, maintain, or cause to be maintained, and provide, throughout the term of this franchise agreement, insurance in the amounts, types, and coverages in accordance with the following requirements. Such insurance may be in the form of self-insurance to the extent permitted by applicable law or by obtaining insurance as follows: Commercial general or excess liability on an occurrence or claims made form with minimum limits of five million dollars (\$5,000,000) per occurrence and ten million dollars (\$10,000,000) aggregate. This coverage shall include the following:
- (1) Products/completed operations to be maintained for the warranty period of two (2) years.
 - (2) Personal and advertising injury.
 - (3) Contractual liability.
 - (4) Explosion, collapse, or underground (XCU) hazards.
- B. Automobile liability coverage with a minimum policy limit of one million dollars (\$1,000,000) combined single limit each accident. This Coverage shall include all owned, hired, and non-owned automobiles.
- C. Workers compensation and employers' liability coverage. Statutory coverage limits for Coverage A and five hundred thousand dollars (\$500,000) bodily injury each accident, five hundred thousand dollars (\$500,000) each employee bodily injury by disease, and five hundred thousand dollars (\$500,000) policy limit bodily injury by disease Coverage B employers' liability are required. Company must provide the City with a waiver of subrogation for workers compensation claims.
- D. Company must name the City, which includes all authorities, commissions, divisions, and departments, as well as elected officials, agents, and volunteers, as additional insureds, under the coverage required herein, except workers compensation coverage. The certificate of insurance must state that the City is an additional insured.
- E. Company will require its contractors and subcontractors to maintain, at their sole cost and expense, a minimum of three million dollars (\$3,000,000) each occurrence or each accident general liability and automobile liability throughout the course of work performed. Also, contractors and subcontractors will be required to maintain statutory workers' compensation benefits in accordance with the regulations of the State of Texas or state of jurisdiction as applicable. The minimum limits for employers' liability insurance will be five hundred thousand dollars (\$500,000) bodily injury each accident, five hundred thousand dollars (\$500,000) each employee bodily injury by disease, five hundred thousand dollars (\$500,000) policy limit bodily injury by disease.
- F. Company will provide proof of its insurance in accordance with this franchise agreement within thirty (30) days of the effective date of this Ordinance and annually thereafter. Company will not be required to furnish separate proof when applying for permits.

SECTION 6. NON-EXCLUSIVE FRANCHISE. This franchise is not exclusive, and nothing herein contained shall be construed so as to prevent the City from granting other like or similar rights, privileges and franchises to any other person, firm, or corporation. This Franchise Agreement does not establish any priority for the use of the City Public Rights-of-Way by Company or by any present or future recipients of franchise agreements, franchisees, or other permit holders.

SECTION 7. COMPENSATION TO THE CITY. In consideration of the grant of said right, privilege and franchise by the City and as full payment for the right, privilege and franchise of using and occupying the said City Public Rights-of-Way, and in lieu of any and all occupation taxes, assessments, municipal charges, fees, easement taxes, franchise taxes, license, permit and inspection fees or charges, street taxes, bonds, street or alley rentals, and all other taxes, charges, levies, fees and rentals of whatsoever kind and character which the City may impose or hereafter be authorized or empowered to levy and collect, excepting only the usual general or special ad valorem taxes which the City is authorized to levy and impose upon real and personal property, sales and use taxes, and special assessments for public improvements, Company shall pay to the City the following:

- A. As authorized by Section 33.008(b) of PURA, the original franchise fee factor calculated for the City in 2002 was 0.003395 (the “Base Factor”), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility’s point of delivery is located within the City’s municipal boundaries for determining franchise payments going forward.

Due to a 2006 agreement between Company and City the franchise fee factor was increased to a franchise fee factor of 0.003565 (the “Current Factor”), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility’s point of delivery is located within the City’s municipal boundaries on an annual basis.

However, consistent with the 2006 agreement, should the Public Utility Commission of Texas at any time disallow Company’s recovery through rates of the higher franchise payments made under the Current Factor as compared to the Base Factor, then the franchise fee factor shall immediately revert to the Base Factor of 0.003395 and all future payments, irrespective of the time period that is covered by the payment, will be made using the Base Factor.

1. The annual payment will be due and payable on or before July 1 of each year throughout the life of this franchise. The payment will be based on each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility’s point of delivery is located within the City’s municipal boundaries during the preceding twelve-month period ended March 31 (April 1 through March 31). The payment will be for the rights and privileges granted hereunder for the twelve-calendar month period (July 1 through June 30) preceding the payment date.
2. The first payment hereunder shall be due and payable on or before July 1, 2021 and will cover the basis period of April 1, 2020 through March 31, 2021 for the privilege period of July 1, 2020 through June 30, 2021. The final payment under this franchise is due on or before July 1, 2040 and covers the basis period of April 1, 2039 through March 31, 2040 for the privilege period of July 1, 2039 through June 30, 2040; and
3. After the final payment date of July 1, 2040, Company may continue to make additional annual payments in accordance with the above schedule. City acknowledges that such continued payments will correspond to privilege periods that extend beyond the term of this Franchise and that such continued payments will be recognized in any

- subsequent franchise as full payment for the relevant annual periods.
- B. A sum equal to four percent (4%) of gross revenues received by Company from services identified as DD1 through DD24 in Section 6.1.2 “Discretionary Service Charges,” in Oncor’s Tariff for Retail Delivery Service (Tariff), effective 1/1/2002, that are for the account and benefit of an end-use retail electric consumer. Company’s obligation to pay on services identified as DD1 through DD24 will continue even if Tariff modifications have been made that have subdivided certain portions of DD1 through DD24 into multiple services with their own numbered charges (e.g. SD charges) or have renumbered the charge, provided that the service is encompassed within the original agreed-to types of Discretionary Service Charges, and further provided that if any service has been removed from Company’s approved Tariffs, then no payment is due. Company will, upon request by the City provide a cross reference to Discretionary Service Charge numbering changes that are contained in Company’s current approved Tariff.
1. The franchise fee amounts based on “Discretionary Service Charges” shall be calculated on an annual calendar year basis, i.e. from January 1 through December 31 of each calendar year.
 2. The franchise fee amounts that are due based on “Discretionary Service Charges” shall be paid at least once annually on or before April 30 each year based on the total “Discretionary Service Charges”, as set out in Section 7B, received during the preceding calendar year. The initial Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2021 and will be based on the calendar year January 1 through December 31, 2020. The final Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2041 and will be based on the calendar months of January 1, 2040 through June 30, 2040.
 3. Company may file a tariff or tariff amendment(s) to provide for the recovery of the franchise fee on Discretionary Service Charges.
 4. City agrees (i) to the extent the City acts as regulatory authority, to adopt and approve that portion of any tariff which provides for 100% recovery of the franchise fee on Discretionary Service Charges; (ii) in the event the City intervenes in any regulatory proceeding before a federal or state agency in which the recovery of the franchise fees on such Discretionary Service Charges is an issue, the City will take an affirmative position supporting the 100% recovery of such franchise fees by Company and; (iii) in the event of an appeal of any such regulatory proceeding in which the City has intervened, the City will take an affirmative position in any such appeals in support of the 100% recovery of such franchise fees by Company.
 5. City agrees that it will take no action, nor cause any other person or entity to take any action, to prohibit the recovery of such franchise fees by Company.
 6. In the event of a regulatory disallowance of the recovery of the franchise fees on the Discretionary Service Charges, Company will not be required to continue payment of such franchise fees.
- C. With each payment of compensation required by Section 7.A., Company shall furnish to the City a statement, executed by an authorized officer of Company or designee, providing the total kWh delivered by Company to each retail customer’s point of delivery within the City and the amount of payment for the period covered by the payment.

- D. With each payment of compensation required by Section 7.B., Company shall furnish to the City a statement executed by an authorized officer of Company or designee, reflecting the total amount of gross revenues received by Company from services identified in its "Tariff for Retail Delivery Service," Section 6.1.2 "Discretionary Service Charges," Items DD1 through DD24.
- E. Should any payment due date required by this Franchise Agreement fall on a weekend or declared bank holiday, payment shall be delivered to the City no later than the close of business on the working day prior to any specifically required due date contain within this Franchise Agreement.
- F. If either party discovers that Company has failed to pay the entire or correct amount of compensation due, the correct amount shall be determined by mutual written agreement between the City and Company and the City shall be paid by Company within thirty (30) calendar days of such determination. Any overpayment to the City through error or otherwise will, at the sole option of the City, either be refunded to Company within thirty (30) days of such determination by the City or offset against the next payment due from Company. Acceptance by either party of any payment due under this Section shall not be deemed to be a waiver by either party of any claim of breach of this Franchise, nor shall the acceptance by either party of any such payments preclude either party from later establishing that a larger amount was actually due or from collecting any balance due. Nothing in this section shall be deemed a waiver by either party of its rights under law or equity.
- G. Interest on late payments shall be calculated in accordance with the interest rate for customer deposits established by the Public Utility Commission of Texas in accordance with the Texas Utilities Code, Section 183.003, as amended for the time period involved.
- H. The franchise fee payable to the City shall not be offset by any payment by Company to the City relating to ad valorem taxes.

SECTION 8. ACCOUNTING MATTERS.

- A. Company shall keep accurate books of account at its principal office for the purpose of determining the amount due to the City under this Franchise.
- B. Pursuant to Section 33.008(e) of the Texas Utilities Code, the City may conduct an audit or other inquiry in relation to a payment made by Company less than two (2) years before the commencement of such audit or inquiry. The City may, if it sees fit, and upon reasonable notice to the Company, have the books and records of the Company examined by a representative of the City to ascertain the correctness of the reports agreed to be filed herein.
- C. The Company shall make available to the auditor during the Company's regular business hours and upon reasonable notice, such personnel and records as the City may, in its reasonable discretion, request in order to complete such audit, and shall make no charge to the City therefore.

1. If as the result of any City audit, Company is refunded/credited for an overpayment or pays the City for an underpayment of the Franchise Fee, such refund/credit or payment shall be made pursuant to the terms established in Section 7.
2. If as a result of a subsequent audit, initiated within (2) years of an audit which resulted in Company making a payment to the City due to an underpayment of the franchise fee of more than 5%, Company makes another payment to the City due to an underpayment of the franchise fee of more than 5%, the City may immediately treat this underpayment as an Uncured Event of Default and exercise the remedies provided for in Section 11.C.

D. The Company shall assist the City in its review by responding to all requests for information no later than thirty (30) days after receipt of a request.

E. The City agrees to maintain the confidentiality of any non-public information obtained from Company to the extent allowed by law. City shall not be liable to Company for the release of any information the City is required by law to release. City shall provide notice to Company of any request for release of non-public information marked by Company as proprietary or confidential prior to releasing the information so as to allow Company adequate time to pursue available remedies for protection. If the City receives a request under the Texas Public Information Act that includes Company's proprietary or confidential information, the City will notify the Texas Attorney General of the proprietary or confidential nature of the document(s). The City also will provide Company with a copy of this notification, and thereafter Company is responsible for establishing that an exception under the Act allows the City to withhold the information.

SECTION 9. TERM; WRITTEN ACCEPTANCE. This Ordinance shall become effective upon Company's written acceptance hereof, said written acceptance to be filed by Company with the City within sixty (60) days after final passage and approval hereof by City. The right, privilege and franchise granted hereby shall expire on June 30, 2040; provided that, unless written notice of cancelation is given by either party hereto to the other not less than sixty (60) days before the expiration of this franchise agreement, it shall be automatically renewed for an additional period of six (6) months from such expiration date and shall be automatically renewed thereafter for like periods until canceled by written notice given not less than sixty (60) days before the expiration of any such renewal period.

SECTION 10. RIGHT OF RENEGOTIATION.

- A. Should either Company or City have cause to believe that a change in circumstances relating to the terms of this franchise agreement may exist, either party may request that the other party provide it with a reasonable amount of information to assist in determining whether a change in circumstances has taken place.
- B. Should either party hereto determine that based on a change in circumstances, it is in the best interest to renegotiate all or some of the provision of this franchise agreement, then the other party agrees to enter into good-faith negotiations. Said negotiations shall involve reasonable, diligent, and timely discussions about pertinent issues and a resolute attempt to settle those issues. The obligation to engage in such negotiations does not obligate either

party to agree to an amendment of this franchise agreement as a result of such negotiations. A failure to agree does not show a lack of good faith. If, as a result of renegotiations, the City and Company agree to a change in a provision of the franchise agreement, the change shall become effective upon passage of an ordinance by the City in accordance with the City Charter and written acceptance of the amendment by Company.

SECTION 11. DEFAULT, REMEDIES, AND TERMINATION.

- A. Events of Default. The occurrence, at any time during the term of the franchise agreement, of any one or more of the following events, shall constitute an Event of Default by Company under this franchise:
 - (1) The failure of Company to pay the franchise fee on or before the due dates specified herein.
 - (2) Company's material breach or material violation of any material terms, covenants, representations, or warranties contained herein.
- B. Uncured Events of Default
 - (1) Upon the occurrence of an Event of Default which can be cured by the immediate payment of money to City, Company shall have thirty (30) calendar days from receipt of written notice from City of an occurrence of such Event of Default to cure the same before City may exercise any of its rights or remedies as provided in this Section 11.
 - (2) Upon the occurrence of an Event of Default by Company which cannot be cured by the immediate payment of money to City, Company shall have sixty (60) calendar days (or such time as may be agreed to by the City) from receipt of written notice from City of an occurrence of such Event of Default to cure same before City may exercise any of its rights or remedies provided for in Section 11.C.
 - (3) If the Event of Default is not cured within the time allowed for curing the Event of Default as provided herein, such Event of Default shall, without additional notice, become an Uncured Event of Default, which shall entitle the City to exercise the remedies provided for in this Section 11.C.
- C. Remedies. The City shall notify the Company, in writing, of an alleged Uncured Event of Default as described in Section 11.B, which notice shall specify the alleged failure with reasonable particularity. The Company shall, within thirty (30) business days after receipt of such notice or such longer period of time as the City may specify in the notice, either cure such alleged failure or in a written response to the City either present facts and arguments in refuting or defending the alleged failure. City, at its option, may agree to an extension of the time for Company to cure any Event of Default. In the event that such cure is not forthcoming, City shall be entitled to exercise any and all of the following cumulative remedies:
 - (1) The commencement of an action against Company at law for monetary damages.
 - (2) The commencement of an action in equity seeking injunctive relief or the specific performance of any of the provisions, that as a matter of equity, are specifically

enforceable.

(3) The termination of this franchise agreement.

- D. Rights and Remedies Not Limited. The rights and remedies of City and Company set forth in this franchise agreement shall be in addition to, and not in limitation of, any other rights and remedies provided by law or in equity. City and Company understand and intend that such remedies shall be cumulative to the maximum extent permitted by law and the exercise by City of any one or more of such remedies shall not preclude the exercise by City, at the same or different times, of any other such remedies for the same failure to cure. City shall not recover both liquidated damages and actual damages for the same violation, breach, or noncompliance.
- E. Termination. In accordance with the provisions of Section 11.C, this franchise agreement may be terminated upon thirty (30) business days prior written notice to Company by City, City shall notify Company in writing at least fifteen (15) business days in advance of the City Council meeting at which the question of forfeiture or termination shall be considered, and Company shall have the right to appear before the City Council in person or by counsel and raise any objections or defenses Company may have that are relevant to the proposed forfeiture or termination. The final decision of the City Council may be appealed to any court or regulatory authority having jurisdiction. Upon timely appeal by Company of the City Council's decision terminating the franchise, the effective date of such termination shall be either when such appeal is withdrawn, or an order upholding the termination becomes final and unappealable. Until the termination becomes effective, the provision of this franchise shall remain in effect for all purposes. The City recognizes Company's right and obligation to provide service in accordance with the Certificate of Convenience and Necessity authorized by the Public Utility Commission of Texas in accordance with the Texas Utilities Code.
- F. No Waiver. The failure of either party to insist in any one or more instances upon the strict performance of any one or more of the terms or provision of this franchise shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect. No waiver or relinquishment shall be deemed to have been made by either party unless said waiver or relinquishment is in writing and signed by a person authorized to execute such waiver or relinquishment.

SECTION 12. PUBLIC PURPOSE. All of the provisions contained in this ordinance are hereby declared to be a public purpose, and are in the interest of the health, safety, and welfare of the general public.

SECTION 13. SUPERSEDES AND REPEALS PRIOR AGREEMENTS. This Ordinance shall supersede and repeal any and all other franchises granted by the City to Company, its predecessors and assigns.

SECTION 14. FUTURE AMENDMENTS. This Ordinance may be amended only by the

mutual written agreement of the City and Company.

SECTION 15. SEVERABILITY CLAUSE. The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable. If any portion of this Ordinance is declared illegal or unconstitutional by the valid final non-appealable judgment or decree of any court of competent jurisdiction, such illegality or unconstitutionality shall not affect the legality and enforceability of any of the remaining portions of this Ordinance.

SECTION 16. NOTICE. All notices required or desired to be given from one party to the other party to this ordinance shall be in writing and shall be given and shall be deemed to have been served and received if: (i) delivered in person to the address set forth below; (ii) deposited in an official depository under regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

CITY

City Manager
City of Hutto
500 W Live Oak St.
Hutto, Texas 78634

City Attorney
Bojorquez Law Firm
11675 Jollyville Road
Austin, Texas 78759

COMPANY

Regulatory Affairs
Oncor Electric Delivery Company LLC
1616 Woodall Rodgers Fwy, 6th Floor
Dallas, Texas 75202-1234

Upon request by City, Company shall provide City with current information for the City's use in forwarding customer inquiries and complaints to Company.

SECTION 17. WRITTEN ACCEPTANCE. In order to accept this franchise, Company must file with the City Secretary its written acceptance of this franchise ordinance within sixty (60) days after its final passage and approval by City.

SECTION 18. PUBLICATION CLAUSE. After this ordinance has been read at two regular meetings, the City Secretary of the City of Hutto is hereby authorized and directed to

publish the caption of this ordinance in two successive issues of the official newspaper of the City.

SECTION 19. OPEN MEETINGS CLAUSE. It is hereby officially found that the meeting at which this Ordinance is passed is open to the public and that due notice of this meeting was posted by City, all as required by law.

SECTION 20. EFFECTIVE DATE. This Ordinance shall become effective upon Company's written acceptance hereof, said written acceptance to be filed by Company with the City Secretary within sixty (60) days after final passage and approval of this Ordinance by the City Council.

READ and **APPROVED** on first reading on the ___ day of ___, 2020, at a meeting of the City Council of the City of Hutto, Texas at which a quorum was present and for which due notice was given by City pursuant to Section 551.001, et. seq., of the Texas Government Code.

READ and **APPROVED** on second reading on the ___ day of ___, 2020, at a meeting of the City Council of the City of Hutto, Texas at which a quorum was present and for which due notice was given by City pursuant to Section 551.001, et. seq., of the Texas Government Code.

Doug Gaul, Mayor
The City of Hutto

ATTEST:

Holly Nagy, City Secretary

STATE OF TEXAS §
COUNTY OF WILLIAMSON §
CITY OF HUTTO §

**CITY OF HUTTO, TEXAS
RESOLUTION NO. R-2020- ____**

**A RESOLUTION APPROVING A HUTTO COMMUNITY
DEVELOPMENT CORPORATION SMALL BUSINESS AND
DISASTER RELIEF PROJECT TO PROMOTE NEW AND
EXPANDED BUSINESS DEVELOPMENT; PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, the City Council finds the City of Hutto is the authorizing unit of the Community Development Corporation and holds the statutory authority to approve projects of the Corporation; and

WHEREAS, the City Council finds the Hutto Community Development Corporation has established a Board of Director's approved Small Business Loan and Disaster Relief Project to promote new and expanded business development in the City of Hutto, Texas (see attached Exhibit 1 incorporated herein as if recited verbatim); and

WHEREAS, the City Council finds that the Hutto Community Development Corporation has approved an appropriation of \$300,000 to fund the Small Business Loan and Disaster Relief Project from its unappropriated reserve funds; and

WHEREAS, the City Council finds that all applicable public hearings and public approvals have been or will be completed prior to the expenditure of funds appropriated herein; and

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF HUTTO, TEXAS:**

Section 1: That recitals above are hereby true and correct and are incorporated into this resolution.

Section 2: The Small Business Loan and Disaster Relief Project is approved after this Resolution was given two separate readings in accordance with Texas law.

Section 3: The stated expenditures for this project to the amounts budgeted are approved.

CONSIDERED and RESOLVED by the City Council of the City of Hutto on this the 6th day of August 2020.

THE CITY OF HUTTO, TEXAS

ATTEST:

Doug Gaul, Mayor

Holly Nagy, City Secretary

Page 1

HUTTO COMMUNITY DEVELOPMENT CORPORATION

RESOLUTION NO. R-2020-043-A (1-Amended)

AN AMENDED RESOLUTION OF THE HUTTO COMMUNITY DEVELOPMENT CORPORATION ESTABLISHING A SMALL BUSINESS LOAN AND DISASTER RELIEF PROJECT TO PROMOTE NEW AND EXPANDED BUSINESS DEVELOPMENT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Hutto, Texas is a Texas municipality with a population of 20,000 or less based on the last decennial census that has been operating under a home-rule charter since February 2004; and

WHEREAS, the Hutto Community Development Corporation (the “CDC”) is a Type B Economic Development Corporation formed under Texas Local Government Code Chapter 505 and is authorized to provide land, building, equipment, facilities, expenditures and improvements found by its board of directors to promote new or expanded business development within the city boundaries, provided that, for projects which require an expenditure of more than \$10,000, the City Council adopts a resolution authorizing the project pursuant to Texas Local Government Code Section 505.158; and

WHEREAS, the Board of Directors find Texas Local Government Code, Section 505.158 provides for projects related to business development in certain small municipalities with a population of 20,000 or less; and

WHEREAS, the Board of Directors find Texas Government Code, Section 311.005 provides that population means the population shown by the most recent federal decennial census; and

WHEREAS, the Board of Directors find the U.S. Census for 2010 determined the population of the City to be 14,698; and

WHEREAS, the Board of Directors find the current state of disaster has led to widespread disruption of the Central Texas economy and led to an unexpected decrease in revenue for many local businesses.

WHEREAS, the Board of Directors find the CDC has determined that providing a “Small Business Loan and Disaster Relief Program” (attached as Exhibit A hereto and incorporated herein as if recited verbatim) to local small businesses will promote new or expand existing business development and create or retain jobs in the City of Hutto, Texas; and

WHEREAS, the Board of Directors find the CDC maintains contracts for the administration of its initial small business loan program by entering into a professional service agreement with CEN-TEX CDC dba BCL of Texas, a Texas non-profit corporation, to assist with the program administration; and

WHEREAS, the Board of Directors find the City of Hutto, Texas has determined that providing loans under modified terms during the period of a disaster as disaster relief grants to local small businesses will promote new or expanded business development and retain jobs in the City of Hutto, Texas during any state of disaster declared by the Governor of the State of Texas, Williamson County or the City of Hutto, Texas; and

WHEREAS, the Board of Directors find the CDC approved, subject to City Council approval, an appropriation of \$300,000 from its reserves to fund the Small Business Loan and Disaster Relief Project to assist small businesses within the City of Hutto, Texas; and

WHEREAS, the Board of Directors find allocating this additional appropriation towards the Small Business Loan and Disaster Relief Project will promote and develop new and expanding business enterprises, help in the creation and retention of jobs in the City of Hutto, Texas, improve the community and is an authorized project as provided by Texas Local Government Code §505.159; and

WHEREAS, the Board of Directors find the CDC conducted the required Public Hearing for this project on June 15, 2020; therefore, the earliest funds may be expended is August 14, 2020.

WHEREAS, the Board of Directors find the above-referenced action authorized by this Resolution is in furtherance of the public interest, is for the good of the community and is necessary and proper and within the authority granted by law to the City of Hutto, Texas and the CDC; and

WHEREAS, the Board of Directors find the City Council of the City of Hutto, Texas considered the project and requested the Board consider amendments to the Project; and

WHEREAS, the Board of Directors find good cause to amend certain aspects of the project desire to amend the project and this resolution to include the amendments into the Project.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Hutto Community Development Corporation that:

I.

The statements set forth in the recitals of this amended Resolution are true and correct, and the CDC hereby incorporates such recitals as a part of this Resolution.

II.

The Small Business Loan and Disaster Relief Project is approved as described herein.

III.

This Resolution shall be and is hereby cumulative of all other resolutions of the CDC and this resolution shall not operate to repeal or affect any such other resolutions except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this resolution, in which event such conflicting provisions, if any, in such other resolution or resolutions are hereby repealed.

IV.

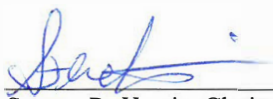
If any section, subsection, sentence, clause, or phrase of this resolution shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining portions of this resolution.

V.

This resolution shall become effective and be in full force and effect from and after the date of passage and adoption by the Board of Directors; however, this project is conditional on the approval and adoption of a Resolution approving this Project by the City Council of the City of Hutto, Texas after two readings.

PASSED AND ADOPTED by the Board of Directors of the Hutto Community Development Corporation on this 21 day of July 2020.

APPROVED



Steven R. Harris, Chairman

ATTEST:



Daniel Thornton, Secretary

Exhibit “A”
SMALL BUSINESS LOAN AND DISASTER RELIEF PROJECT

Eligibility & Loan Program Administration

The Dallas Federal Reserve, 2018 Texas Small Business Survey reports that access to funds, collateral and other financial constraints are the top challenges faced by small businesses. The City of Hutto was experiencing rapid growth prior to the unexpected economic slowdown caused by the current state of disaster. Small businesses in Hutto contribute to the local economy through job creation, job retention, sales taxes, and local property taxes. The small businesses in Hutto create the quality of life that we enjoy. The creation of a Small Business Loan and Disaster Relief Loan Project (“SBLDRLP”) will support the growth of Hutto’s small business community.

The SBDRLP was established after a similar project with an initial funding of two hundred fifty thousand dollars (\$250,000) and approved and distributed. This new Project, with City Council approval will be funded by an additional contribution from the Hutto CDC in the amount of three hundred thousand dollars (\$300,000). Loans of up to fifty thousand dollars (\$50,000) with repayment terms of no longer than five (5) years, will be made to qualifying local small businesses on a “first-come-first-serve” basis.

Additionally, this program is designed to be financially self-sustaining. The funds allocated to this project will remain in the project until action by the Board to discontinue to project. As the loans are repaid, the funds will be recycled automatically into the allocated Project funds and made available for new loans. This will allow constant reinvestment into the growth of Hutto’s local economy.

Purposes:

To provide financial assistance in the form of loans to businesses in Hutto that will:

1. Assist in the economic development of Hutto;
2. Stimulate private investment within the City;
3. Encourage and facilitate in the remodeling and restoration of historically significant structures within the area;
4. Provide capital for established growth businesses and their sustainability in times of disaster; and
5. Job creation and retention.

Small Business Loan Borrower Guidelines, Eligibility and Requirements:

- Business borrowers may seek loans up to fifty thousand dollars (\$50,000).
- Borrowers must be creditworthy. A credit report will be pulled on each business owner.
- Borrowers must demonstrate management experience in the business industry.
- Projects are economically visible.
- Projects are consistent with the above-stated purpose.
- Funds requested may be leveraged with other sources, *i.e.*, borrower’s equity, other senior debt, etc.
- Business must demonstrate cash flow and ability to repay the loan.
- Business must be located within the City of Hutto, Texas city limits.
- The business must contribute ten percent (10%) of the amount being requested.
- Each owner will be required to personally guarantee the loan.

- Each owner will agree to the public release of the name of all loan recipients and the amount of the loan obtained.
- Collateral shall be required to secure the loan. Collateral offered must be equal to or greater than the loan requested. *Note:* Collateral is often discounted.
- All costs associated with the business loan are detailed with estimates and/or quotes supporting the project cost breakdown.
- Loan terms address each project's needs. The interest rate will be fixed at the U.S. WSJ (Wall Street Journal) Prime and will set at the time of closing.
- Loans may be amortized with flexible payment features and be for a term of up to five (5) years.
- Business and personal guarantees of individuals with twenty percent (20%) or more ownership are required.
- All applicants must file a one hundred dollar (\$100) non-refundable application fee with the application.
- Ineligible businesses include bars, liquor stores, dance halls, massage parlors, tanning/nail salons.
- The borrower must meet U.S. Small Business Loan Size Standards.
- Loans for personal use are **NOT** eligible.
- A loan committee appointed by the Hutto Community Development Corporation will review loan applications for action. Loan approvals are based upon borrower credit, collateral offered, and the business's ability to repay the loan, number of new jobs created, and other lending criteria.
- Businesses can seek a second loan, but the first loan must be seasoned (three (3) year's minimum positive payment history).
- Loan prepayments are allowed without any penalty.
- All approved borrowers will sign a legal loan agreement and promissory note. Full repayment is expected. This is a loan **NOT** a grant.

Disaster Relief Loan Borrower Guidelines, Eligibility and Requirements:

The below terms and provisions will apply to assist small businesses within the City of Hutto during a "State of Disaster" declared by the Governor of the State of Texas, to assist paying for business and payroll expenses during a declared state of disaster. To qualify for a Disaster Relief Loan, local small businesses must meet all the Small Business Loan Guidelines, Eligibility and Requirements and the following criteria; however, to the extent the below criteria conflicts with the Small Business Loan criteria, these provisions will apply instead of the Small Business Loan criteria:

- Physical and publicly accessible location within the City of Hutto city limits (no home-based businesses);
- Experienced or projected to experience a decline in revenue during the declared state of disaster;
- Experienced or projected to experience a decline in employment as a result of the declared state of disaster;
- In good standing with the City of Hutto regarding licensing and finance, including being current on sales and use tax payments;
- Registered with the Texas Comptroller's Office as a sales tax-revenue-generating business for the City of Hutto;
- Have less than five million dollars (\$5,000,000) in annual gross revenue;
- Engaged in activities that are legal under local and state law;
- Applied for a federal disaster assistance loan; and

- Complete and submit a disaster loan application available from the City Secretary.

The following businesses are ineligible for the Disaster Relief Program:

- national chains and franchises;
- regional businesses with more than five (5) Texas locations; or
- home-based businesses.

Third-Party Loan Processing, Loan Closing, Loan Servicing, Portfolio Management, Reporting

The Hutto Community Development Corporation proposes to outsource the SBDRLP loan underwriting. Loan deployment and loan fund administration to a third-party experienced in the administration of small business revolving loan funds. By engaging a third-party underwriter and loan fund administrator, all borrower information is confidential and not subject to the Texas Public Information Act. The third-party administrator shall:

- Serve as the lending staff for the SBLDRP;
- Consult with potential loan customers – finalize the sources & uses of funds;
- Prepare loan structure and conduit loan underwriter;
- Underwrite all loans (pull credit reports, evaluate historical financials, assess collateral values, repayment ability and recommend action);
- Present to SBDRLP loan committee record of all loan approval action;
- Prepare & execute loan documents;
- Conduct loan closings;
- Disburse Loan Funds;
- File Uniform Commercial Code (UCC) liens;
- File Deeds of Trust;
- Set-up accounts for bank draft payments;
- Service the loan portfolio (monthly ACH draft & monitor payment collections);
- Counsel with borrower as changes arise and monitor business management & collateral;
- Provide borrower with technical assistance for the life of the loan;
- Develop loan workout plans (complex servicing);
- Maintain permanent loan files;
- Mail annual 1098 (interest paid for the year statements);
- Maintain monthly SBDRLP customer payment reports, use of funds, loan pool recovery and balances, etc.
- Report on the status of the Project, status of Project funding, fund transaction and other related details related to the administration of the project as requested by the Board. Financial information regarding revenue from payments and the processing of loan applications will be provided monthly.

**CITY OF HUTTO, TEXAS
RESOLUTION NO. R-2020- ____**

**A RESOLUTION APPROVING A HUTTO COMMUNITY
DEVELOPMENT CORPORATION SMALL BUSINESS AND
DISASTER RELIEF PROJECT TO PROMOTE NEW AND
EXPANDED BUSINESS DEVELOPMENT; PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, the City Council finds the City of Hutto is the authorizing unit of the Community Development Corporation and holds the statutory authority to approve projects of the Corporation; and

WHEREAS, the City Council finds the Hutto Community Development Corporation has established a Board of Director's approved Small Business Loan and Disaster Relief Project to promote new and expanded business development in the City of Hutto, Texas (see attached Exhibit 1 incorporated herein as if recited verbatim); and

WHEREAS, the City Council finds that the Hutto Community Development Corporation has approved an appropriation of \$300,000 to fund the Small Business Loan and Disaster Relief Project from its unappropriated reserve funds; and

WHEREAS, the City Council finds that all applicable public hearings and public approvals have been or will be completed prior to the expenditure of funds appropriated herein; and

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF HUTTO, TEXAS:**

Section 1: That recitals above are hereby true and correct and are incorporated into this resolution.

Section 2: The Small Business Loan and Disaster Relief Project is approved after this Resolution was given two separate readings in accordance with Texas law.

Section 3: The stated expenditures for this project to the amounts budgeted are approved.

CONSIDERED and RESOLVED by the City Council of the City of Hutto on this the 6th day of August 2020.

THE CITY OF HUTTO, TEXAS

ATTEST:

Doug Gaul, Mayor

Holly Nagy, City Secretary

Page 1

HUTTO COMMUNITY DEVELOPMENT CORPORATION

RESOLUTION NO. R-2020-043-A (1-Amended)

AN AMENDED RESOLUTION OF THE HUTTO COMMUNITY DEVELOPMENT CORPORATION ESTABLISHING A SMALL BUSINESS LOAN AND DISASTER RELIEF PROJECT TO PROMOTE NEW AND EXPANDED BUSINESS DEVELOPMENT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Hutto, Texas is a Texas municipality with a population of 20,000 or less based on the last decennial census that has been operating under a home-rule charter since February 2004; and

WHEREAS, the Hutto Community Development Corporation (the “CDC”) is a Type B Economic Development Corporation formed under Texas Local Government Code Chapter 505 and is authorized to provide land, building, equipment, facilities, expenditures and improvements found by its board of directors to promote new or expanded business development within the city boundaries, provided that, for projects which require an expenditure of more than \$10,000, the City Council adopts a resolution authorizing the project pursuant to Texas Local Government Code Section 505.158; and

WHEREAS, the Board of Directors find Texas Local Government Code, Section 505.158 provides for projects related to business development in certain small municipalities with a population of 20,000 or less; and

WHEREAS, the Board of Directors find Texas Government Code, Section 311.005 provides that population means the population shown by the most recent federal decennial census; and

WHEREAS, the Board of Directors find the U.S. Census for 2010 determined the population of the City to be 14,698; and

WHEREAS, the Board of Directors find the current state of disaster has led to widespread disruption of the Central Texas economy and led to an unexpected decrease in revenue for many local businesses.

WHEREAS, the Board of Directors find the CDC has determined that providing a “Small Business Loan and Disaster Relief Program” (attached as Exhibit A hereto and incorporated herein as if recited verbatim) to local small businesses will promote new or expand existing business development and create or retain jobs in the City of Hutto, Texas; and

WHEREAS, the Board of Directors find the CDC maintains contracts for the administration of its initial small business loan program by entering into a professional service agreement with CEN-TEX CDC dba BCL of Texas, a Texas non-profit corporation, to assist with the program administration; and

WHEREAS, the Board of Directors find the City of Hutto, Texas has determined that providing loans under modified terms during the period of a disaster as disaster relief grants to local small businesses will promote new or expanded business development and retain jobs in the City of Hutto, Texas during any state of disaster declared by the Governor of the State of Texas, Williamson County or the City of Hutto, Texas; and

WHEREAS, the Board of Directors find the CDC approved, subject to City Council approval, an appropriation of \$300,000 from its reserves to fund the Small Business Loan and Disaster Relief Project to assist small businesses within the City of Hutto, Texas; and

WHEREAS, the Board of Directors find allocating this additional appropriation towards the Small Business Loan and Disaster Relief Project will promote and develop new and expanding business enterprises, help in the creation and retention of jobs in the City of Hutto, Texas, improve the community and is an authorized project as provided by Texas Local Government Code §505.159; and

WHEREAS, the Board of Directors find the CDC conducted the required Public Hearing for this project on June 15, 2020; therefore, the earliest funds may be expended is August 14, 2020.

WHEREAS, the Board of Directors find the above-referenced action authorized by this Resolution is in furtherance of the public interest, is for the good of the community and is necessary and proper and within the authority granted by law to the City of Hutto, Texas and the CDC; and

WHEREAS, the Board of Directors find the City Council of the City of Hutto, Texas considered the project and requested the Board consider amendments to the Project; and

WHEREAS, the Board of Directors find good cause to amend certain aspects of the project desire to amend the project and this resolution to include the amendments into the Project.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Hutto Community Development Corporation that:

I.

The statements set forth in the recitals of this amended Resolution are true and correct, and the CDC hereby incorporates such recitals as a part of this Resolution.

II.

The Small Business Loan and Disaster Relief Project is approved as described herein.

III.

This Resolution shall be and is hereby cumulative of all other resolutions of the CDC and this resolution shall not operate to repeal or affect any such other resolutions except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this resolution, in which event such conflicting provisions, if any, in such other resolution or resolutions are hereby repealed.

IV.

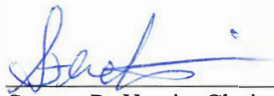
If any section, subsection, sentence, clause, or phrase of this resolution shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining portions of this resolution.

V.

This resolution shall become effective and be in full force and effect from and after the date of passage and adoption by the Board of Directors; however, this project is conditional on the approval and adoption of a Resolution approving this Project by the City Council of the City of Hutto, Texas after two readings.

PASSED AND ADOPTED by the Board of Directors of the Hutto Community Development Corporation on this 21 day of July 2020.

APPROVED



Steven R. Harris, Chairman

ATTEST:



Daniel Thornton, Secretary

Exhibit “A”
SMALL BUSINESS LOAN AND DISASTER RELIEF PROJECT

Eligibility & Loan Program Administration

The Dallas Federal Reserve, 2018 Texas Small Business Survey reports that access to funds, collateral and other financial constraints are the top challenges faced by small businesses. The City of Hutto was experiencing rapid growth prior to the unexpected economic slowdown caused by the current state of disaster. Small businesses in Hutto contribute to the local economy through job creation, job retention, sales taxes, and local property taxes. The small businesses in Hutto create the quality of life that we enjoy. The creation of a Small Business Loan and Disaster Relief Loan Project (“SBLDRLP”) will support the growth of Hutto’s small business community.

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Additionally, this program is designed to be financially self-sustaining. The funds allocated to this project will remain in the project until action by the Board to discontinue to project. As the loans are repaid, the funds will be recycled automatically into the allocated Project funds and made available for new loans. This will allow constant reinvestment into the growth of Hutto’s local economy.

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- Business must be located within the City of Hutto, Texas city limits.
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- Registered with the Texas Comptroller's Office as a sales tax-revenue-generating business for the City of Hutto;
- Have less than five million dollars (\$5,000,000) in annual gross revenue;
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- Serve as the lending staff for the SBDRLP;
- Consult with potential loan customers – finalize the sources & uses of funds;
- Prepare loan structure and conduit loan underwriter;
- Underwrite all loans (pull credit reports, evaluate historical financials, assess collateral values, repayment ability and recommend action);
- Present to SBDRLP loan committee record of all loan approval action;
- Prepare & execute loan documents;
- Conduct loan closings;
- Disburse Loan Funds;
- File Uniform Commercial Code (UCC) liens;
- File Deeds of Trust;
- Set-up accounts for bank draft payments;
- Service the loan portfolio (monthly ACH draft & monitor payment collections);
- Counsel with borrower as changes arise and monitor business management & collateral;
- Provide borrower with technical assistance for the life of the loan;
- Develop loan workout plans (complex servicing);
- Maintain permanent loan files;
- Mail annual 1098 (interest paid for the year statements);
- Maintain monthly SBDRLP customer payment reports, use of funds, loan pool recovery and balances, etc.
- Report on the status of the Project, status of Project funding, fund transaction and other related details related to the administration of the project as requested by the Board. Financial information regarding revenue from payments and the processing of loan applications will be provided monthly.

CITY OF HUTTO

RESOLUTION NO. R-2020-068

RESOLUTION OF THE CITY OF HUTTO, TEXAS, AUTHORIZING AND CREATING THE DURANGO FARMS PUBLIC IMPROVEMENT DISTRICT WITHIN THE CITY OF HUTTO PURSUANT TO CHAPTER 372 TEXAS LOCAL GOVERNMENT CODE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council (the "City Council") of the City of Hutto, Texas (the "City") has received a petition (the "Petition") requesting creation of a public improvement district (the "District") under Chapter 372 of the Texas Local Government Code (the "Act"), from the record owners of taxable real property representing more than fifty percent (50%) of the appraised value of the real property liable for assessment (as determined by the most recent certified appraisal roll for Williamson County) in the proposed District and the record owners of taxable real property that constitute more than 50% of all of the area of all taxable real property that is liable for assessment under the proposal; and

WHEREAS, the petition for the District initially identified the District name to be "Durango Downs Public Improvement District" but the District is now to be named "Durango Farms Public Improvement District"; and

WHEREAS, the Petition, has been examined, verified, and found to meet the requirements of Section 372.005(b) of the Act and to be sufficient for consideration by the City Council; and

WHEREAS, the boundaries of the proposed District are described in Exhibit A attached hereto, said area for the District being within the boundaries and/or the extraterritorial jurisdiction of the City; and

WHEREAS, after providing all notices required by the Act, the City conducted a public hearing (the "Hearing") on the advisability of the improvements and services described in the Petition.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HUTTO, TEXAS:

SECTION 1: The findings set forth in the recitals of this Resolution are hereby found to be true and correct.

SECTION 2: The Petition submitted to the City was filed with the City Secretary and complies with Subchapter A of the Act.

SECTION 3. Proper notice of the Hearing was provided to the owners of real property within the District and published in the newspaper as required by the Act. Pursuant to the requirements of the Act, the City Council, after considering the Petition and the evidence and testimony presented at the Hearing, hereby finds and declares:

- (a) Advisability of the Proposed Public Improvements. It is advisable to create the District to provide the public improvements described in the Petition and this Resolution. The public improvements will promote the interests of the City and will confer a special benefit on the District.
- (b) General Nature of the Proposed Public Improvements. The general nature of the public improvements are: (i) the establishment of parks and open space, together with the design, construction and maintenance of any ancillary structures, features or amenities such as trails, pavilions, community facilities, parking facilities, sidewalks, irrigation, walkways, lighting, benches, trash receptacles and any similar items located therein; (ii) landscaping; (iii) acquisition, construction, and improvement of water, wastewater and drainage facilities; (iv) acquisition, construction and improvement of streets, roadways, rights-of-way and related facilities; (v) entry monumentation and features; (vi) signage; (vii) projects similar to those listed in subsections (i) - (vi) above; and (viii) payment of costs associated with constructing and financing the public improvements listed in subparagraphs (i) - (vii) above, including costs of establishing, administering and operating the District.
- (c) Estimated Cost of the Proposed Public Improvements. The estimated cost to design, acquire and construct the public improvements is \$15,000,000.00 (including issuance and other financing costs).
- (d) Proposed District Boundaries. The District is proposed to include approximately 105 acres of land generally located in Hutto, Williamson County, Texas, and being more fully described in Exhibit A attached hereto.
- (e) Proposed Method of Assessment. An assessment methodology will be prepared that will address: (i) how the costs of the public improvements financed with the assessments are assessed against the property in the District, (ii) the assessments to be collected each year, and (iii) reduction of the assessments for costs savings (pursuant to the annual review of the service plan for the District). Additionally, a report will be prepared showing the special benefits accruing to property in the District and how the costs of the public improvements are assessed to property on the basis of the special benefits.
The assessment methodology will result in each parcel of land in the District being assessed for fair share of the costs of the public improvements within the District based on the special benefits received by such parcel . PIn all cases, equal shares of the costs of the public improvements will be imposed on property similarly benefited within the District..
- (f) Proposed Apportionment of Cost between the District and the City. Approval and creation of the District will not obligate the City to provide any funds to finance the public improvements. All of the costs of the public improvements will be paid from assessments levied on the property within the District and from other funds available to the Owner.

- (g) Management of the District. The District shall be managed by the City. The City may contract with a consultant or third-party administrator, who shall, from time to time, advise the City regarding certain operations of the District.
- (h) Advisory Body. The District shall be currently managed without the creation of an advisory body. The City Council reserves the right to appoint an advisory body in the future.

SECTION 4. The Durango Farms Public Improvement District is hereby authorized and created as a Public Improvement District under the Act in accordance with the findings as to the advisability of the public improvements contained in this Resolution.

SECTION 5. The City's staff is directed to give notice of the authorization for the establishment of the Durango Farms Public Improvement District by publishing a copy of this Resolution once in a newspaper of general circulation within the City. Such authorization shall take effect and the Durango Farms Public Improvement District shall be deemed to be established effective upon the publication of such notice. The Durango Farms Public Improvement District shall exist until dissolved or terminated as provided by law.

SECTION 6. This Resolution shall take effect immediately from and after its passage and it is accordingly so resolved.

[Signature page follows]

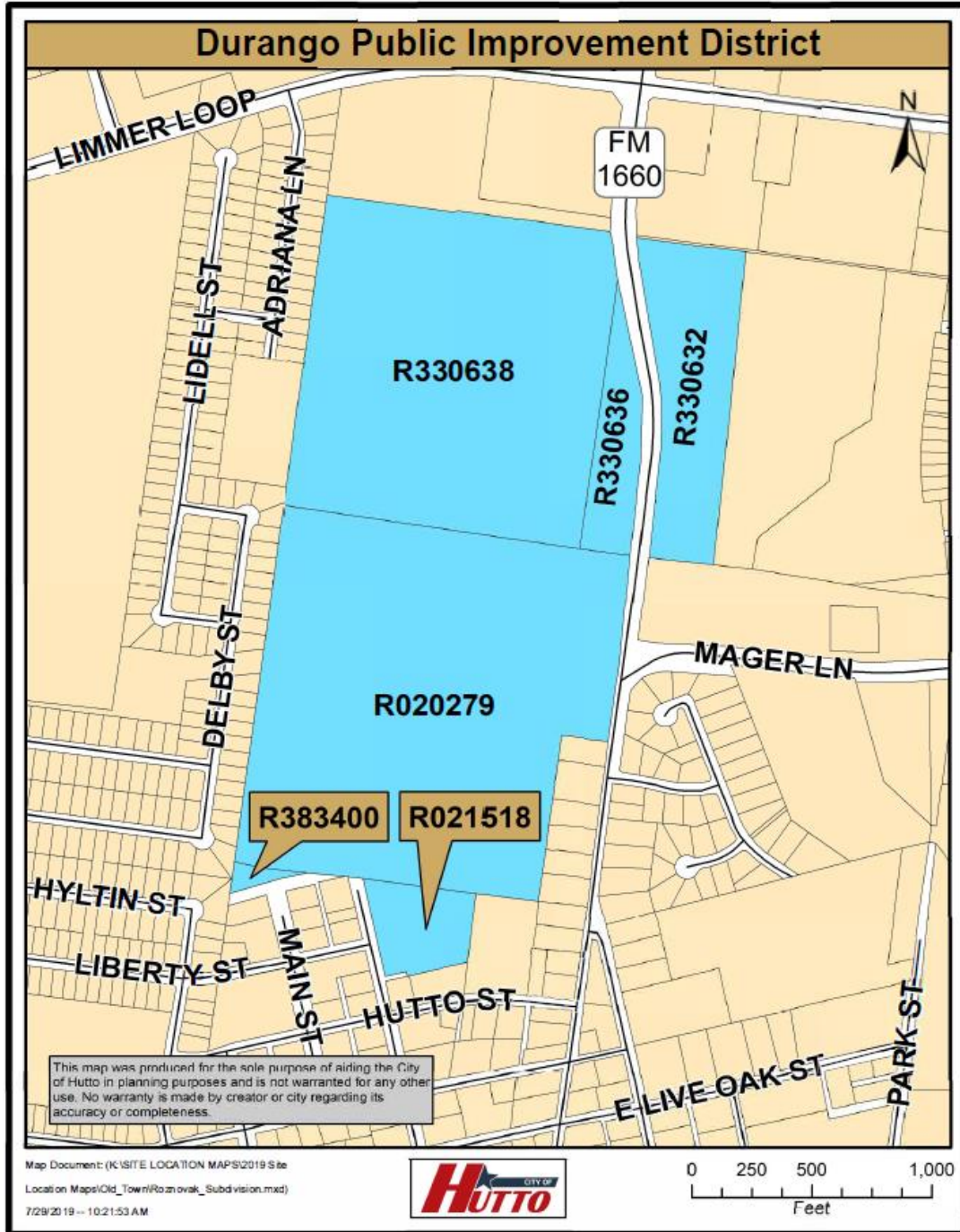
**PASSED & APPROVED by the CITY COUNCIL of the CITY OF HUTTO on the ____ day
of _____, 2020 on vote of ____ AYES; ____ NAYS; ____ ABSTENTIONS.**

**DOUG GAUL
MAYOR
CITY OF HUTTO**

ATTEST:

**HOLLY NAGY
CITY SECRETARY
CITY OF HUTTO**

**EXHIBIT A
BOUNDARIES**



Williamson County, Texas
J. Shelton Survey, Abstract No. 560
E. Thomson Survey, Abstract No. 844
W.J. Brown Survey, Abstract No. 105

94.560 Acres
Page 1 of 3

"EXHIBIT __"

DESCRIPTION OF 94.560 ACRES OF LAND IN THE J. SHELTON SURVEY, ABSTRACT NO. 560, THE E. THOMASON SURVEY, ABSTRACT NO. 844, AND THE W.J. BROWN SURVEY, ABSTRACT NO. 105, WILLIAMSON COUNTY, TEXAS; BEING A PORTION OF A CERTAIN CALLED 96.99 ACRE TRACT DESIGNATED AS TRACT ONE AND DESCRIBED IN THE DEED TO JERRY E. ROZNOVAK AND WIFE, HILDA ROZNOVAK OF RECORD IN VOLUME 443, PAGE 472, DEED RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID 94.560 ACRES OF LAND, AS SURVEYED BY LANDDEV CONSULTING, LLC, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch iron rod with a plastic cap stamped "RJ Survey" (Grid Coordinates: N= 10,177.139.20, E= 3,174.174.80) found in the west right-of-way line of F.M. 1660, a variable-width right-of-way, in the north line of the said 96.99 acre tract, at the easterly southeast corner of a certain called 201.06 acre tract described in the deed to Billie B. Davenport of record in Volume 1079, Page 938, Deed Records of Williamson County, Texas, same being the southwest corner of a certain called 4.758 acre tract described in the deed to the State of Texas of record in Volume 476, Page 605, Deed Records of Williamson County, Texas, same being the northwest corner of a certain called 3.722 acre tract described in the deed to the State of Texas of record in Volume 476, Page 607, Deed Records of Williamson County, Texas, for the northeast corner and **POINT OF BEGINNING** of the tract described herein;

THENCE leaving the easterly southeast corner of the said 201.06 acre tract, crossing the said 96.99 acre tract, with the west right-of-way line of said F.M. 1660, and the west line of the said 3.722 acre tract, with the east line of the tract described herein, the following five (5) courses and distances:

1. with the arc of a curve to the left, having a radius of 1,186.28 feet, an arc distance of 167.73 feet, and a chord which bears S 05°38'19" E, a distance of 167.59 feet to a calculated point-of-tangency, from which a destroyed Texas Department of Transportation (TXDOT) Type-I concrete right-of-way monument found bears S 84°08'53" W, a distance of 0.45 feet,
2. S 09°45'32" E, a distance of 467.63 feet to a Texas Department of Transportation (TXDOT) Type-I concrete right-of-way monument found at a point-of-curvature,
3. with the arc of a curve to the right, having a radius of 1,106.28 feet, an arc distance of 335.98 feet, and a chord which bears S 01°06'29" E, a distance of 334.69 feet to a Texas Department of Transportation (TXDOT) Type-I concrete right-of-way monument found at a point-of-tangency,
4. S 07°51'42" W, a distance of 790.50 feet to a 3/4-inch iron rod found at an angle point, and
5. S 07°39'43" W, a distance of 421.01 feet to a 1/2-inch iron rod with a plastic cap stamped "RJ Survey" found in the west line of the said 3.722 acre tract, in the north line of a certain called 0.51 acre tract described in the deed to Nadine Carole Johnson and Dennis Johnson of record in Document No. 2006083936, Official Public Records of Williamson County, Texas, for a southeast corner of the tract described herein, from which a 1/2-inch iron rod with a plastic cap stamped "RPLS 1433" found in the west right-of-way line of said F.M. 1660 at the northeast corner of the said 0.51 acre tract bears S 82°31'24" E, a distance of 21.83 feet;

THENCE N 82°16'34" W, leaving the west right-of-way line of said F.M. 1660, and the west line of the said 3.722 acre tract, crossing the said 96.99 acre tract, with the north line of the said 0.51 acre tract, and with a south line of the tract described herein, a distance of 179.38 feet to a 1/2-inch iron rod with a plastic cap stamped "RJ Survey" found at the northwest corner of the said 0.51 acre tract, for a re-entrant corner of the tract described herein;

THENCE S 07°29'25" W, continuing across the said 96.99 acre tract, with the west line of the said 0.51 acre tract, with the east line of the tract described herein, a distance of 114.42 feet to a 1/2-inch iron rod with a plastic cap stamped "RPLS 1433" found at a re-entrant corner of the said 96.99 acre tract, at the southwest corner of the said 0.51 acre tract, same being the northwest corner of a certain called 4/5ths of an acre described in the special warranty deed with life estate to Robert W. Kaderka and wife, Bonnie Kaderka of record in Document No. 2015074295, Official Public Records of Williamson County, Texas, for an angle point in the east line of the tract described herein;

THENCE S 07°42'22" W, with the east line of the said 96.99 acre tract, with the west line of the said 4/5ths of an acre tract, and with the west line of a certain called 0.51 acre tract described in the deed to Bruce Craig Cunningham of record in Volume 1954, Page 227, Official Public Records of Williamson County, Texas, with the east line of the tract described herein, a distance of 180.55 feet to a 1/2-inch iron rod with a plastic cap stamped "RJ Survey" found at an angle point;

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Williamson County, Texas
J. Shelton Survey, Abstract No. 560
E. Thomason Survey, Abstract No. 844
W.J. Brown Survey, Abstract No. 105

94.560 Acres
Page 2 of 3

THENCE S 06°40'19" W, with the east line of the said 96.99 acre tract, with the west line of the said 0.51 acre tract, and with the west line of a certain called 0.484 acre tract described in the deed to Marla Dawn Burns of record in Document No. 9722814, Official Public Records of Williamson County, Texas, with the east line of the tract described herein, a distance of 200.68 feet to a ½-inch iron rod found in the north line of a certain called 0.480 acre tract described in the deed to John A. Drummond, Sr. of record in Document No. 9662944, Official Public Records of Williamson County, Texas, at the southwest corner of the said 0.484 acre tract, same being a southeast corner of the said 96.99 acre tract, for a southeast corner of the tract described herein;

THENCE N 81°53'59" W, with the north line of the said 0.480 acre tract and a south line of the said 96.99 acre tract, with a south line of the tract described herein, a distance of 10.57 feet to a fence corner post found at a re-entrant corner;

THENCE S 08°03'45" W, with the west line of the said 0.480 acre tract and the west line of a certain called 0.59 acre tract described in the deed to Jonathan M. Wagner and Marci H. Wagner of record in Document No. 2016117309, Official Public Records of Williamson County, Texas, with the east line of the said 96.99 acre tract, with the east line of the tract described herein, a distance of 223.01 feet to a concrete monument found in the north line of a certain called 2.47 acre tract described in the deed to Charles E. Holland and Deborah D. Holland of record in Volume 868, Page 561, Deed Records of Williamson County, Texas, at the southwest corner of the said 0.59 acre tract, same being a southeast corner of the said 96.99 acre tract, for a southeast corner of the tract described herein;

THENCE N 82°23'05" W, with the north line of the said 2.47 acre tract, with a south line of the said 96.99 acre tract, with a south line of the tract described herein, a distance of 242.61 feet to a 3/8-inch iron rod found at the northwest corner of the said 2.47 acre tract, at the northeast corner of Block 4, Hutto and Metcalfe Addition, a subdivision according to the plat of record in Book 66, Page 148, Deed Records of Williamson County, Texas, and as shown on the Revised Map of City of Hutto of record in Cabinet A, Slide 221, Plat Records of Williamson County, Texas, for a re-entrant corner of the tract described herein;

THENCE S 07°38'01" W, with the west line of the said 2.47 acre tract and an east line of the said 96.99 acre tract, with the east line of said Block 4 and Block 3, said Hutto and Metcalfe Addition, with an east line of the tract described herein, a distance of 298.64 feet to a ½-inch iron rod found at the southeast corner of said Block 3, Hutto and Metcalfe Addition, and the northeast corner of a certain called 0.659 acre tract described in the deed to Dennis O. Johnson and Nadine C. Johnson of record in Document No. 2001074832, Official Public Records of Williamson County, Texas, for the southerly southeast corner of the tract described herein;

THENCE S 77°34'56" W, crossing the said 96.99 acre tract, with the north line of the said 0.659 acre tract, with the south line of the tract described herein, a distance of 253.79 feet to a ¾-inch iron rod found at the northwest corner of the said 0.659 acre tract, and the northeast corner of Lot 2, Block 2, said Hutto and Metcalfe Addition, for an angle point in the south line of the tract described herein,

THENCE S 77°37'39" W, continuing across the said 96.99 acre tract, with the north line of said Lot 2, Block 2, Hutto and Metcalfe Addition, with the south line of the tract described herein, a distance of 91.78 feet to a concrete monument found in a west line of the said 96.99 acre tract, at the intersection of the south line of an alley and the east right-of-way line of East Street, a 60-foot right-of-way, as shown on the said Hutto and Metcalfe Addition subdivision plat, at the northwest corner of said Lot 2, Block 2, Hutto and Metcalfe Addition, for the southerly southwest corner of the tract described herein;

THENCE N 12°28'30" W, with the east right-of-way line of said East Street, the west line of the said 96.99 acre tract, with the west line of Lot 6, Block 2, and the west line of Block 5, said Hutto and Metcalfe Addition, with a west line of the tract described herein, a distance of 439.34 feet to a ½-inch iron rod with a plastic cap stamped "RJ Survey" found at the northeast terminus of said East Street, at the northwest corner of said Block 5, said Hutto and Metcalfe Addition, for an angle point in the south line of the tract described herein;

THENCE N 82°21'12" W, with the south line of the said 96.99 acre tract, with the north terminus of said East Street, with the northeast terminus of Capitol Street, a 50-foot right-of-way, as shown on the said Hutto and Metcalfe Addition subdivision plat, with the south line of the tract describe herein, a distance of 220.17 feet to a ½-inch iron rod with a plastic cap stamped "RJ Survey" found at an angle point in the north right-of-way line of said Capitol Street, at the east corner of Block 9, said Hutto and Metcalfe Addition, for an angle point in the south line of the tract described herein;

THENCE S 76°41'29" W, with the south line of the said 96.99 acre tract, with the north right-of-way line of said Capitol Street, with the south line of Block 9 and Block 13, said Hutto and Metcalfe Addition, a distance of 350.53 feet to a ½-inch iron rod with a plastic cap stamped "RJ Survey" found in the east line of Lot 4, Block F, Hutto Square Section 1, a subdivision according to the plat of record in Cabinet W, Slides 263-267, Plat Records of Williamson County, Texas, at a southwest corner of the said 96.99 acre tract, for a southwest corner of the tract described herein;

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W.J. Brown Survey, Abstract No. 105

94.560 Acres
Page 3 of 3

THENCE with the west line of the said 96.99 acre tract, the east line of said Hutto Square Section 1, the east line of Hutto Square Section 2, a subdivision according to the plat of record in Cabinet Y, Slides 154-157, Plat Records of Williamson County, Texas, with the east line of Hutto Square Section 3, a subdivision according to the plat of record in Cabinet CC, Slides 138-139, Plat Records of Williamson County, Texas, with the west line of the tract described herein, the following four (4) courses and distances:

1. N 07°40'21" E, a distance of 55.89 feet to a ½-inch iron rod with a plastic cap stamped "4391" found at the north corner of Lot 4, the east corner of Lot 5, southeast corner of Lot 39, and the south corner of Lot 40, Block F, said Hutto Square Section 1, for an angle point of the tract described herein,
2. N 07°38'18" E, a distance of 655.93 feet to a ½-inch iron rod with a plastic cap stamped "RJ Survey" found in the east line of Lot 48, Block F, said Hutto Square Section 2, for an angle point of the tract described herein,
3. N 07°46'41" E, a distance of 230.55 feet to a ½-inch iron rod with a plastic cap stamped "RPLS 4391" found at the northeast corner of Lot 51 and the southeast corner of Lot 52, Block F, said Hutto Square Section 2, for an angle point of the tract described herein, and
4. N 07°46'30" E, a distance of 2,059.60 feet to a concrete monument found in the east line of Lot 91, Block F, said Hutto Square Section 3, at the northwest corner of the said 96.99 acre tract, same being a re-entrant corner of the said 201.06 acre tract, for the northwest corner of the tract described herein;

THENCE S 82°15'43" E, with the north line of the said 96.99 acre tract and a south line of the said 201.06 acre tract, with the north line of the tract described herein, a distance of 1,222.52 feet to the **POINT OF BEGINNING** and containing 94.560 acres of land, more or less.

BEARING BASIS: Texas Coordinate System, Central Zone, NAD83, Grid.

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF TRAVIS

That I, Ernesto Navarrete, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the parcel of land described herein is based upon a survey performed upon the ground under my direct supervision during the month of April, 2019.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, this 03rd day of May 2019 A.D.

LANDDEV CONSULTING, LLC
5508 Highway 290 West, Suite 150
Austin, Texas 78735

Ernesto Navarrete
Registered Professional Land Surveyor
No. 6642 – State of Texas



LandDev Consulting, LLC • 5508 Highway 290 West, Suite 150, Austin, TX 78735 • (512) 872-6696
TBPE Firm No. 16384 | TBPLS Firm No. 10194101

"EXHIBIT ____"

DESCRIPTION OF 10.554 ACRES OF LAND IN THE E. THOMASON SURVEY, ABSTRACT NO. 844, AND THE CANUTILLO COLONY DITCH COMPANY SURVEY, ABSTRACT NO. 693, WILLIAMSON COUNTY, TEXAS; BEING A PORTION OF A CERTAIN CALLED 11.10 ACRE TRACT DESIGNATED AS TRACT TWO AND DESCRIBED IN THE DEED TO JERRY E. ROZNOVAK AND WIFE, HILDA ROZNOVAK OF RECORD IN VOLUME 443, PAGE 472, DEED RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID 10.554 ACRES OF LAND, AS SURVEYED BY LANDDEV CONSULTING, LLC, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a ½-inch iron rod with a plastic cap stamped "RJ Survey" (Grid Coordinates: N= 10,177,139.20, E= 3,174,174.80) found in the west right-of-way line of F.M. 1660, a variable-width right-of-way, in the north line of a certain called 96.99 acre tract designated as Tract One and described in said deed to Jerry E. Roznovak and wife, Hilda Roznovak of record in Volume 443, Page 472, Deed Records of Williamson County, Texas, at the easterly southeast corner of a certain called 201.06 acre tract described in the deed to Billie B. Davenport of record in Volume 1079, Page 938, Deed Records of Williamson County, Texas, same being the southwest corner of a certain called 4.758 acre tract described in the deed to the State of Texas of record in Volume 476, Page 605, Deed Records of Williamson County, Texas, and the northwest corner of a certain called 3.722 acre tract described in the deed to the State of Texas of record in Volume 476, Page 607, Deed Records of Williamson County, Texas, from which a concrete monument found in the east line of Lot 91, Block F, said Hutto Square Section 3, a subdivision according to the plat of record in Cabinet CC, Slides 138 and 139, Plat Records of Williamson County, Texas, at the northwest corner of the said 96.99 acre tract, same being a re-entrant corner of the said 201.06 acre tract bears N 82°15'43" W, a distance of 1,222.52 feet;

THENCE S 82°15'43" E, crossing the said F.M. 1660 right-of-way, a distance of 97.80 feet to a ½-inch iron rod with a plastic cap stamped "LANDDEV" set in the east right-of-way line of said F.M. 1660, in the north line of the said 11.10 acre tract, at the northeast corner of the said 3.722 acre tract and the southeast corner of a certain called 1.529 acre tract described in the deed to the State of Texas of record in Volume 476, Page 603, Deed Records of Williamson County, Texas, in the south line of a certain called 135 acre tract described in the deed to Janet Lynn Barnard, Trustee for the Janet Lynn Barnard Family 1984 Trust of record in Volume 1126, Page 800, Deed Records of Williamson County, Texas, same being the southwest corner of a certain called 65.234 acre tract conveyed to CMSAL-2 L.L.C. of record in Document No. 2011084930, Official Public Records of Williamson County, Texas, and described in Document No. 1999014821, Official Public Records of Williamson County, Texas, for the northwest corner and **POINT OF BEGINNING** of the tract described herein, from which a Texas Department of Transportation (TXDOT) Type-I concrete right-of-way monument found in the east right-of-way line of said F.M. 1660, in the east line of the said 1.529 acre tract, and the west line of a certain called 28.449 acre tract described in the deed to North Town Commons, LLC of record in Document No. 2007062953, Official Public Records of Williamson County, Texas, bears N 03°15'10" W, a distance of 192.32 feet, and from which a ½-inch iron rod found bears N 02°00'51" W, a distance of 10.60 feet;

THENCE S 82°15'43" E, with the north line of the said 11.10 acre tract and the south line of the said 135 acre tract, with the south line of the said 65.234 acre tract, with the north line of the tract described herein, a distance of 498.95 feet to a ½-inch iron rod with a plastic cap stamped "LANDDEV" set for the northeast corner of the said 11.10 acre tract, at a re-entrant corner of the said 135 acre tract, in the south line of the said 65.234 acre tract, for the northeast corner of the tract described herein;

THENCE S 07°38'01" W, with the east line of the said 11.10 acre tract and the west line of the said 135 acre tract, with the east line of the tract described herein, at a distance of 9.91 feet, passing a ½-inch iron rod with a plastic cap stamped "PAPE DAWSON" found, and continuing for a total distance of 17.36 feet to a calculated point for a southeast corner of the tract described herein, from which a ½-inch iron rod found bears N 74°00'05" E, a distance of 0.23 feet;

THENCE leaving the west line of the said 135 acre tract, crossing the said 11.10 acre tract, with a south, east, and north line of the tract described herein, the following three (3) courses and distances:

1. N 82°21'59" W, a distance of 50.00 feet to a ½-inch iron rod with a plastic cap stamped "LANDDEV" set for a re-entrant corner,
2. S 07°38'01" W, a distance of 50.00 feet to a ½-inch iron rod with a plastic cap stamped "LANDDEV" set for a re-entrant corner, and
3. S 82°21'59" E, a distance of 50.00 feet to a calculated point in the east line of the said 11.10 acre tract and west line of a certain called 72.025 acre tract described in the deed to Mager Meadows, LP of record in Document No. 2004018146, Official Public Records of Williamson County, Texas, for a northeast corner of the tract described herein, from which a ½-inch iron rod found bears S 61°01'59" E, a distance of 0.33 feet;

THENCE S 07°38'01" W, with the east line of the said 11.10 acre tract and the west line of the said 72.025 acre tract, with the east line of the tract described herein, a distance of 1,292.44 feet to a ½-inch iron rod found in the north line of a certain called

Williamson County, Texas
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Canutillo Colony Ditch Company Survey, Abstract No. 693

10.554 Acres
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9.862 acre tract described in the deed to Herbert L. Prewitt and wife, Connie E. Prewitt of record in Volume 876, Page 655, Deed Records of Williamson County, Texas, at the southwest corner of the said 72.025 acre tract and the southeast corner of the said 11.10 acre tract, for the southeast corner of the tract described herein;

THENCE N 82°26'32" W, with the south line of the said 11.10 acre tract and the north line of the said 9.862 acre tract, with the south line of the tract described herein, at a distance of 2.07 feet, passing a concrete monument found 0.12 feet north of the line, and continuing for a total distance of 285.57 feet to a 5/8-inch iron rod found in the east right-of-way line of said F.M. 1660, and the south line of the said 11.10 acre tract, at a southeast corner of the said 3.722 acre tract and the northeast corner of a certain called 0.311 acre tract described in the deed to the State of Texas of record in Volume 476, Page 612, Deed Records of Williamson County, Texas, at the northwest corner of the said 9.862 acre tract, for the southwest corner of the tract described herein;

THENCE crossing the said 11.10 acre tract, with the east right-of-way line of said F.M. 1660, with the east line of the said 3.722 acre tract, with the west line of the tract described herein, the following four (4) courses and distances:

1. N 07°21'46" E, a distance of 421.34 feet to a destroyed Texas Department of Transportation (TXDOT) Type-1 concrete right-of-way monument found at an angle point,
2. N 07°33'54" E, a distance of 324.41 feet to a destroyed Texas Department of Transportation (TXDOT) Type-1 concrete right-of-way monument found at an angle point,
3. N 13°27'20" W, a distance of 513.66 feet to a destroyed Texas Department of Transportation (TXDOT) Type-1 concrete right-of-way monument found at an angle point, and
4. N 03°15'10" W, a distance of 138.59 feet to the **POINT OF BEGINNING** and containing 10.554 acres of land, more or less.

BEARING BASIS: Texas Coordinate System, Central Zone, NAD83, Grid.

THE STATE OF TEXAS
COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS:

That I, Ernesto Navarrete, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the parcel of land described herein is based upon a survey performed upon the ground under my direct supervision during the month of April and May, 2019.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, this 20th day of May 2019 A.D.

LANDDEV CONSULTING, LLC
5508 Highway 290 West, Suite 150
Austin, Texas 78735


Ernesto Navarrete
Registered Professional Land Surveyor
No. 6642 - State of Texas



LandDev Consulting, LLC • 5508 Highway 290 West, Suite 150, Austin, TX 78735 • (512) 872-6696
TBPE Firm No. 16384 | TBPLS Firm No. 10194101

FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT

This First Amended and Restated Development Agreement ("Agreement") is entered into to be effective as of the ____ day of _____, 2020 (the "Effective Date"), by and between the City of Hutto, Texas (the "City"), a home rule city organized under the laws of the State of Texas, and Jerry Wayne Roznovak and Nadine Carole Johnson (collectively the "Owner"). The City and the Owner are, collectively, the "Parties" to this Agreement.

This Agreement amends, restates, and replaces in full the Development Agreement between the City and the Owner dated October 3, 2019, which remains the Effective Date of the Agreement.

RECITALS

WHEREAS, Owner owns that certain tract of land containing approximately 105.60 acres currently in the City (the "Property") as described and shown on Exhibit A; and

WHEREAS, Owner intends to develop the Property into a high-quality mixed-use development that includes single-family residential, multi-family residential and commercial developments (the "Project"), that will serve present and future residents of the City; and

WHEREAS, the Project is anticipated to add significant property tax base and increased property tax revenues in the City; and

WHEREAS, the Owner has advised the City that one or more agreements with the City would be necessary to defray a portion of the costs to be incurred by the Owner as a consequence of developing and constructing the Project; and

WHEREAS, the City may use its discretion to create a Public Improvement District ("PID") to provide utility, roadway, drainage, parks and related infrastructure to support the Project in a financially feasible manner in accordance with Chapter 372 of the Texas Local Government Code, the City's PID Policy and all other applicable state law; and

WHEREAS, the City and the Owner desire to set forth in this Agreement certain terms and conditions for the planning, design, construction, development, and financing of the Project.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I PURPOSE AND INTERPRETATION

1.1 **Objectives.** The Owner is proposing to develop a residential subdivision, including multi-family and commercial, near downtown Hutto. Hutto continues to have a need for quality, residential development that complements the economic and strategic goals of the City. The City believes that the development of the Project will provide needed, high quality housing for existing and future residents.

1.2 **Concept and Structure.** Development of the Property will be substantially similar to the Concept Plan attached hereto as **Exhibit B**. The Owner will be responsible for the development and construction of the Project, except as set forth herein. The City will provide financing and economic incentive agreements that are generally described in Article VI.

1.3 **Interpretation.** In this Agreement, unless a clear contrary intention appears;

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any Party includes such Party's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Party in a particular capacity excludes such Party in any other capacity or individually;
- (c) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof;
- (d) "hereunder," "hereof," "hereto," and words of similar import shall be deemed references to this Agreement as a whole and not to any particular article, section or other provision thereof;
- (e) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and
- (f) reference to any constitutional, statutory or regulatory provision means such provision as it exists on the Effective Date and any amendatory provision thereof or supplemental provision thereto.

1.4 **Legal Representation of the Parties.** This Agreement was negotiated by the Parties hereto with the benefit of legal representation and any rules of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any Party shall not apply.

ARTICLE II DEFINITIONS

2.1 **Definitions.** All capitalized terms used in this Agreement shall have the meanings ascribed to them in this Article II, or as otherwise provided herein.

"**Agreement**" means this Development Agreement by and between the City and the Owner.

"**City**" means the City of Hutto, Texas.

"**City Council**" means the City Council of the City of Hutto.

"**Concept Plan**" means the concept plan attached hereto as Exhibit B, as such concept plan may be modified and changed from time to time as set forth in this Agreement. The Parties acknowledge and agree that the Concept Plan is for illustrative purposes only and is only a general representation of the design.

"**Effective Date**" means the date set forth in the opening paragraph on page 1. "Parties" means the City and the Owner.

"**Owner**" means Jerry Wayne Roznovak and Nadine Carole Johnson, and their successors and assigns that specifically assume the rights and obligations of this Agreement.

"Party" means the City or the Owner.

"Project" means the Project as described in **Article IV**.

"Property" means the real property described and shown on **Exhibit A**.

"Public Improvements" has the meaning ascribed to it in **Section 5.2**

"State" means the State of Texas.

ARTICLE III ANNEXATION and ZONING

3.1 **Annexation.** As of the Effective Date, the Property has been annexed into the City.

3.2 **Chapter 245 Permit.** This Agreement shall constitute the first (Permit) in a series of applications for the purpose of vesting as contemplated in Chapter 245 of the Texas Local Government Code (subject to the exemptions as set forth therein), as authorized by Section 212.172(g) of the Texas Local Government Code. All aesthetic requirements of the zoning district, as outlined in the Unified Development Code or Planned Unit Development, as adopted and amended, shall be provided for in accordance with Article IV, 4.5 and 4.6.

ARTICLE IV THE PROJECT

4.1 **General Description.** The Project will be planned, developed and constructed on the Property by the Owner in phases as determined by Owner in accordance with market conditions and otherwise in accordance with any permits and approvals from any applicable governmental authorities.

4.2 **Development.** The Owner intends to construct improvements to real property and additions to personal property within the Property as contemplated by the Concept Plan. However, the parties agree and acknowledge that the actual construction shall be dictated by the ultimate zoning of the Property, platting of the Property, site development permits issued for the Property, submittal of a Traffic Impact Analysis for the Property and associated fees, and other development permits issued for the Property. The Project will be permitted and constructed in accordance with City ordinances and regulations, except as may be specifically set forth in this Agreement.

4.3 **Owner Additional Contributions to Project.** The Owner agrees to perform or allow the following:

- (a) Pay to the City the amount of **TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00)**, herein defined as the "Owner Contribution", on a pro-rata basis as PID Bonds are requested by Owner and issued by the City, and such payments shall be made within 10 calendar days of receipt of funds of the PID Proceeds from the Trustee, as defined in the PID Financing Agreement. As described herein, "PID Bonds" shall mean bonds issued by the City, for the purposes of funding Public Improvements within the Project. For example, if the total amount of net PID Proceeds is equal to \$8,000,000.00, if Owner were to draw down \$2,000,000.00 of the PID Proceeds, Owner shall pay to the

City \$500,000.00 within 10 calendar days of receipt of funds until Owner has drawn down the full \$8,000,000.00 and paid the full amount of the Owner Contribution. If all PID Proceeds are not drawn down by Owner by December 1, 2022, Owner shall pay whatever outstanding amount of the Owner Contribution remains unpaid. Such payment by Owner shall not release City from its obligation to disburse PID Proceeds.

- (b) As part of the construction of the Project, install (including design and approval) at its expense (including with PID Proceeds) a traffic signal (in compliance with City codes and TXDOT regulations) at the intersection of Mager Lane and FM 1660. If the traffic signal does not meet warrants during construction of the Project, then Owner and City can agree upon a fixed amount for Owner to pay to City at such time, which amount will satisfy Owner's requirement herein, and then City agrees to use such funds to construct the traffic signal at such time as it meets warrants.
- (c) As part of the construction of the Project, install at Owner's expense (including with PID Proceeds) a 12" and 8" waterline extension of the City's existing waterline as shown in the attached **Exhibit C**.
- (d) As part of the construction of the Project, install at Owner's expense (including with PID Proceeds) up graded streetlights within the Project.
- (e) As part of the construction of the Project, install at Owner's expense (including with PID Proceeds) open space, trails, and other amenities as may be finally approved and permitted by the City within the Project;
- (f) To facilitate the Project, at Owner's expense, conduct a Traffic Impact Analysis for the Property and pay any associated fees with conducting such analysis.
- (g) On the later of the final plat of the Project, or 30 days following the first issuance of the PID Bonds, Owner shall dedicate to the City, or to a designee of the City, approximately 3.4 acres of parkland described on Exhibit E attached hereto. Maintenance of the parkland shall be the responsibility of the City or City's designee that the parkland is dedicated to. Owner reserves the right to retain access easements and/or utility easements located within any dedicated parkland. Owner further reserves the right to retain, in order to build necessary infrastructure for the Project, a six-month construction easement, commencing upon the date of dedication.:

4.4 **City Incentives to Project.** The City incentives to the Project shall include only the following

- (a) The Owner may use the Alternative Road and Trench Method for construction of the Project, as shown in the attached Exhibit D, as approved by City Engineer.
- (b) The City may use its discretion to create a Public Improvement District ("PID"), in accordance with the City's PID Policy on the Property, as more fully set forth below in Article VI.
- (c) The City shall facilitate the financing of the Public Improvements, as more fully set forth

below in Article VI.

- (d) The Owner shall enter into a license agreement with the City to allow Owner to maintain monument signage, other subdivision entry features, and landscaping in the City right-of-way in accordance with the approved site plan. The license agreement may provide that the license agreement shall be assigned to the homeowners' association for the Project.
- (e) The City agrees to enter into a mutually agreeable license agreement to allow Owner to maintain the detention pond and flood area (as such may be finally approved in the site plan), and to allow the license agreement to be assigned to the homeowners' association for the Project. The license agreement will further provide the City with a right of entry and enforcement to enforce its regulations and requirements with respect to maintaining the detention and flood areas.

4.5 **Building Material Deed Restrictions.** The Owner agrees to execute, on behalf of all properties within the Project, a deed restriction requiring compliance with all building material restrictions outlined in Section 3.3 of the Durango Farms Planned Unit Development, approved in Ordinance O-19-10-17-10C ("PUD") for the Project.

4.6 **Homeowners Association.** The Owner agrees that the Project shall include one or more homeowner's associations. Owner agrees to require the homeowner's association to actively enforce the deed restriction described in Section 4.5 above.

ARTICLE V PUBLIC IMPROVEMENTS

5.1 **General.** The Parties agree that the Project will require extension and improvements to the transportation and utility facilities, and the installation of Public Improvements, to adequately serve and develop the Project. Owner will construct all Public Improvements and other infrastructure necessary to serve the Project in accordance with the Unified Development Code, (UDC), City ordinances and regulations, except as set forth herein. City will accept such Public Improvements in accordance with the UDC, City ordinances and regulations.

5.2 **Public Improvements.** The term "Public Improvements" shall mean those certain infrastructure improvements required for the Project as finally approved and permitted, including any improvements or facility together with its associated public site, right-of-way or easement necessary to provide transportation, drainage, public utilities, or similar essential public services and facilities, for which the City will ultimately assume the responsibility for maintenance and operation of ownership, or both. This term also includes the following: drainage facilities, streets and other rights-of-way, potable water systems, reuse water system, sanitary sewage system, survey monuments, illumination including street lights, traffic control signs and traffic signalization, fire hydrants, sidewalks and curb ramps, street name signs, traffic control signs, street pavement markings, and open space improvements.

5.3 **Water and Wastewater.** The City holds the water and wastewater Certificates of Convenience and Necessity (CCN) to provide water and wastewater service to the Property. The City acknowledges that it has capacity to serve the full development of the Property (based on the Concept

Plan) with continuous and adequate water and wastewater service. In the event the City is unable or unwilling at any time to provide continuous and adequate water and wastewater service for the development of the Property contemplated by this Agreement, the City agrees that the Property may obtain water and wastewater service from an alternative provider.

ARTICLE VI ECONOMIC INCENTIVES

6.1 **Public Improvement District.** Upon receipt of a petition to create a PID, the City shall use its best efforts to initiate and approve all necessary documents and ordinances required to effectuate this Agreement, to create the PID, and to levy assessments to finance the costs of all or a portion of the Public Improvements. If the City approves a Service and Assessment Plan (“SAP”) providing for the levy of the assessments on the Property, the City will levy special PID assessments against the Property with an Assessment Ordinance based on the approved SAP. The final terms of the PID, SAP, levy, and all other required documents are subject to the approval of both the City and the Owner, if applicable. To the extent that the City is in a non-recourse position on any debt, the City will support the creation of the Public Improvement District (PID) in accordance with the City’s PID Policy for the purposes of paying for public infrastructure to support the Project. However, in no way will the City be responsible for the debt of the Owner. The City will reimburse eligible Project Costs as defined in the Texas Local Government Code, Chapter 372, Section 372.003, which are deemed substantially complete by the City Engineer for public improvement infrastructure, with funds received by the City from the initiation of a PID assessment. Such reimbursement shall be outlined in a future Reimbursement Agreement between the Parties to reflect specific reimbursement amounts. Any municipal bonds issued for the PID must comply with the City’s PID Policy and are subject to all applicable laws. The City, other than as described in the applicable PID Bond ordinance, is in no way responsible for repayment of debt on such bonds. If the City issues PID bonds, the City is only responsible for payments for costs of Public Improvements from revenues to be generated by the levy and collection of assessments within the PID.

6.2 **Financing and PID Bond Issuance.** In accordance with the PID Policy, the City will consider the issuance of PID Bonds for the purposes of acquiring or constructing authorized Public Improvements within the Project (and including those items set forth in 4.3 hereof.) The Owner will prepare and the City will consider the approval of the PID Financing Agreement (“PFA”). As used herein, “PID Proceeds” shall mean proceeds generated from payment of the PID assessments, or bond proceeds generated from the sale of PID Bonds. The PID Proceeds shall be used to fund construction or acquisition of authorized Public Improvements in accordance with applicable law. The PFA, all conditions of financing, and all other required documents are subject to the approval of both the City and the Owner, as applicable.

6.3 Owner agrees to pay to the City the Owner Contribution as set forth in Section 4.3.

ARTICLE VII INSURANCE, CLAIMS, INDEMNIFICATION, PERFORMANCE, PAYMENT AND MAINTENANCE BONDS

7.1 **Insurance.**

- (a) **General.** General. Owner and all contractors, subcontractors, engineers, and consultants shall carry and maintain throughout the term of this Agreement (except as specifically noted below) the following insurance policies:
- (i) Workers' Compensation and Employers' Liability Insurance coverage with limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act and minimum policy limits for employers' liability of \$1,000,000 bodily injury for each accident, \$1,000,000 bodily injury by disease policy limit and \$1,000,000 bodily injury by disease each employee. City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund. The insurance required by this subsection shall be in effect commencing not later than the commencement of construction of any portion of the Infrastructure as defined in Paragraph 10.
 - (ii) Automobile Liability Insurance for all owned, non-owned, and hired motor vehicles used, with respect to the Property or the Project in a minimum amount of \$1,000,000, combined single limit.
 - (iii) Commercial General Liability policy with a minimum limit of \$1,000,000 per occurrence for bodily injury and/or property damage, with a minimum aggregate of \$1,000,000 and blanket contractual coverage, independent contractors' coverage and explosion, collapse, and underground (X, C & U) coverage.
 - (iv) For contractors/subcontractors providing professional engineering, architectural or design services under this Agreement, Engineers' Professional Liability Insurance or other errors and omissions insurance coverage for the non-engineer professionals with a minimum limit of \$1,000,000 per claim and in the aggregate to pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act, error, or omission committed or alleged to have been committed with respect to plans, maps, drawings, analyses, reports, surveys, change orders, designs or specifications prepared or alleged to have been prepared by the assured. The insurance required by this subsection shall be in effect commencing not later than the commencement of submission to City for approval of permits for construction of any phase of the Project. The insurance will be renewed or extended as necessary to remain in force as for claims made for two (2) years after final acceptance of the Project by the City.
 - (v) For work that involves asbestos or any Hazardous Materials or risk of air, water or soil pollution, the following will be in addition to the other insurance required hereunder:
 - a. Asbestos abatement endorsement or pollution coverage to the Commercial General Liability policy with minimum bodily injury and Property damage limits of \$1,000,000 per occurrence for coverages A&B and products/completed operations coverage with a separate aggregate of \$1,000,000. This policy cannot exclude asbestos or any Hazardous

Materials or pollution and shall provide “occurrence” coverage without a sunset clause.

- b. Pollution coverage in accordance with Title 49 C.F.R. § 171.8 requiring an MCS 90 endorsement with a \$5,000,000 limit when transporting asbestos in bulk in conveyances of gross vehicle weight rating of 10,000 pounds or more. All other transporters of asbestos shall provide either an MCS 90 endorsement with minimum limits of \$1,000,000 or an endorsement to their Commercial General Liability Insurance policy that provides coverage for bodily injury and Property damage arising out of the transportation of asbestos or other Hazardous Materials. The endorsement must, at a minimum, provide a \$1,000,000 limit of liability and cover events caused by the hazardous propelties of airborne asbestos arising from fire, wind, hail, lightning, overturn of conveyance, collision with other vehicles or objects, and loading and unloading of conveyances.
- (b) The insurance required under this subsection 7.1(a)(v) will only be required for the entity that is actually performing work involving asbestos or any Hazardous Materials or risk of air, water or soil pollution. For example, if Owner’s contractor (instead of Owner) is performing such work, the contractor, not Owner, will be required to carry such insurance. The insurance required by this subsection shall be in effect commencing not later than the commencement of each phase of construction if that phase will include work involving asbestos or any Hazardous Materials or risk of air, water or soil pollution.
- (c) **Certificates of Insurance and Insurance Policy Documents.** Certificates of Insurance will not be accepted as substitutes for copies of Insurance Policy Documents. The term “Insurance Policy Documents” means true and correct copies of the relevant policy of insurance including all declarations, definitions, schedules, endorsements, exclusions, exceptions, riders, waivers, jackets, modifications, notices, descriptions of deductibles and of self-insured retentions and all other instruments and other documents governing insurance coverage under such policy.
- (d) **Special Requirements.** Owner shall not cause or permit any insurance required hereunder to be canceled or lapse during the term of this Amendment. With respect to subsections 11.1(a)(i), (ii) and (iii), insurance coverage is to be written by companies duly authorized to do the business of insurance in the State of Texas at the time the policies are issued and will be written by companies with an A.M. Best rating of A-VII or better or otherwise approved in writing by the City. Additionally, with respect to subsections 11.1(a)(i), (ii) and (iii), all policies will contain a provision in favor of the City waiving subrogation and other rights of recovery against the City, and will be endorsed to provide the City with a 30-day advance notice of cancellation or change in coverage. The City will be an additional insured as its interests may appear on the Commercial General and Automobile Liability policies. All policies will provide primary coverage as applicable, with any insurance maintained by the City being excess and non-contributing. Owner shall submit copies of all insurance policies to the City providing evidence of insurance coverage required by this Amendment on or before the commencement of the Project except that asbestos, Hazardous Waste,

pollution, and professional engineers and other errors and omissions policy documents need not be provided until those covered by such insurance commence work on the Project or as otherwise provided in this Amendment. The production of copies of all policies to be promptly supplemented with delivery to the City of copies of any and all changed or new Insurance Policy Documents. Owner will be responsible for (i) overseeing its contractors with respect to such contractors' obtaining and maintaining the insurance required hereunder and (ii) obtaining and keeping copies of such Insurance Policy Documents evidencing the insurance coverages required hereunder.

- (e) **Additional Insured.** All endorsements, waivers, and notices of cancellation as well as the policies of commercial general liability and automobile insurance shall provide that City is an additional insured and will be delivered to the City as provided in the Notices Section of this Amendment or such other address as the City may notify Owner in writing.
- (f) **Cost.** Owner shall be responsible for paying premiums, deductibles and self-insured retentions, if any, stated in the insurance policies to be carried hereunder by Owner (not by its contractors and any subcontractors). All deductibles or self-insured retentions shall be disclosed on the Insurance Policy Documents. The insurance coverages required under this Agreement are required minimums and are not intended to limit or otherwise establish the responsibility or liability of Owner under this Agreement.

7.2 INDEMNIFICATION AND HOLD HARMLESS

OWNER HEREBY COVENANTS AND AGREES TO RELEASE, DEFEND, HOLD HARMLESS, AND INDEMNIFY CITY, AND THE CURRENT AND FUTURE OFFICERS, AGENTS, SERVANTS AND EMPLOYEES THEREOF, FROM AND AGAINST ALL THIRD-PARTY CLAIMS, SUITS, JUDGMENTS, DAMAGES, AND DEMANDS (TOGETHER, "THIRD PARTY CLAIMS" OR "TPC") AGAINST THE CITY, WHETHER THREATENED, ANTICIPATED, OR ASSERTED, INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEY'S FEES, RELATED EXPENSES, EXPERT WITNESS FEES, CONSULTANT FEES, AND OTHER COSTS, ARISING OUT OF THE NEGLIGENCE OR OTHER WRONGFUL CONDUCT OF OWNERS, INCLUDING THE NEGLIGENCE OF OWNERS' EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, MATERIALMEN, AND AGENTS OCCURRING DURING THE CONSTRUCTION OF ANY PORTION OF THE INFRASTRUCTURE OR PERFORMANCE OF THE PROJECT; AND IT IS EXPRESSLY UNDERSTOOD THAT SUCH TPC SHALL, EXCEPT AS MODIFIED BELOW, INCLUDE TPC EVEN IF CAUSED BY THE CITY'S OWN CONCURRENT (BUT NOT GROSS) NEGLIGENCE. OWNERS SHALL NOT, HOWEVER, BE REQUIRED TO INDEMNIFY THE CITY AGAINST TPC CAUSED BY THE CITY'S SOLE NEGLIGENCE. IF THE CITY INCURS TPC THAT ARE CAUSED BY THE CONCURRENT NEGLIGENCE OF OWNERS AND THE CITY, THE OWNERS' INDEMNITY OBLIGATION WILL BE LIMITED TO A FRACTION OF THE TOTAL TPC AND EXPENSES EQUIVALENT TO OWNERS' OWN PERCENTAGE OF RESPONSIBILITY. THE OBLIGATIONS UNDER THIS SECTION 11.2 SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT.

7.3 Claims and Release.

7.3.1 **Claims.** If the City notifies Owner of any Claim, Owner shall assume on behalf of the City and conduct with due diligence and in good faith the investigation and defense thereof and the response thereto with counsel selected by Owner but reasonably satisfactory to the City; provided, that City has the right to be represented by advisory counsel of their own selection and at their own expense; and provided further, that if any such Claim involves Owner and the City and the City has been advised in writing by counsel that there may be legal defenses available to it which are inconsistent with those available to Owner, then City has the right to select separate counsel to participate in the investigation and defense of and response to such Claim on City's own behalf, and Owner shall pay or reimburse the City for all reasonable legal fees and costs incurred by the City because of the selection of such separate counsel.

7.3.2 **Release.** Other than to the extent caused by a City Event of Default, Owner hereby releases the City with respect to all Claims regarding any alleged, established or admitted negligent or wrongful act or omission of the City, the Corporation or any agents, contractors, representatives or employees of the City, INCLUDING ALL CLAIMS CAUSED BY THE NEGLIGENCE OR STRICT LIABILITY OF THE CITY but excluding Claims to the extent caused by the gross negligence or willful misconduct of the City. The provisions of this Section will survive the expiration or earlier termination of this Agreement.

7.4 **Performance, Payment and Maintenance Bonds.** Owner or Owner's contractor shall obtain performance and payment bonds as required by Chapter 2253, Public Work Performance and Payment Bonds, of the Texas Government Code. After inspection and prior to acceptance of public improvements by the City that benefit the Project, Owner shall provide a two (2) year maintenance bond in an amount not less than ten (10) percent of the cost of the public improvements.

ARTICLE VIII MISCELLANEOUS

8.1 **Mutual Assistance.** The City and the Owner will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement, and to aid and assist each other in carrying out such terms and provisions in order to put each other in the same economic condition contemplated by this Agreement regardless of any changes in public policy, the law, or taxes or assessments attributable to the Property.

8.2 **Default; Remedies.**

(a) No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure, such reasonable time determined based on the nature of the alleged failure, but in no event more than ten (10) business days for a monetary default, or (b) less than 30 days or more than 90 days after written notice of the alleged failure has been given for a non-monetary default. In addition, no Party shall be in default under this Agreement if, within the applicable cure period for a non-monetary

default, the Party to whom the notice was given, or another Party begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured.

(b) If a Party is in default beyond any applicable notice and cure period, the aggrieved Party may, at its option and without prejudice to any other right or remedy under this Agreement, seek any relief available at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgement Act, specific performance, mandamus, and injunctive relief. Notwithstanding the foregoing, however, no default under this Agreement shall:

- (i) entitle the aggrieved Party to terminate this Agreement (except as specifically set forth in this Agreement); or
- (ii) adversely affect or impair the current or future obligations of the City to provide water or wastewater service or any other service to the Property; or
- (iii) entitle the aggrieved Party to seek or recover consequential monetary damages of any kind; or
- (iv) reduce the term of this Agreement (except as specifically set forth in this Agreement).

(c) In the event any legal action or proceeding is commenced between the Parties to enforce provisions of this Agreement and recover damages for breach, each party in such legal action shall pay its own attorneys' fees and expenses incurred by reason of such action..

8.3 Undocumented Workers. The Owner certifies that it does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the term of this Agreement, the Owner is convicted of a violation under 8 U.S.C. § 1324a(f), the Owner shall repay the amount of the public subsidy provided under this Agreement as required by law. Pursuant to Section 2264.101, Texas Government Code, a business is not liable for a violation of Chapter 2264 by a subsidiary, affiliate, or franchisee of the business, or by a person with whom the business contracts.

8.4 Binding Effect. This Agreement shall be binding on and inure to the benefit of the Parties, their respective successors and assigns.

8.5 Assignment.

(a) This Agreement and the rights and obligations of Owner hereunder may be assigned by Owner upon fifteen (15) days prior written notice to City to MA Partners, LLC or any entity which is:

- (i) the successor by merger or otherwise to all or substantially all of Owner's assets and liabilities including, but not limited to, any merger or acquisition pursuant to any public offering or reorganization to obtain financing and/or growth capital; or
- (ii) any entity which may have acquired all of the outstanding stock or ownership of assets of Owner without the consent of the City, provided that the assignee assumes all of the obligations of Owner hereunder.

(b) For assignments not covered by (a) above, Owner may assign this Agreement from time to time to any party that:

(i) does not owe delinquent taxes or fees to the City,

(ii) is not in material default (beyond any applicable notice and cure period) under any development or financing agreement with the City and

(iii) has the experience, expertise and the financial capacity and ability to perform the duties or obligations so assigned under this Agreement. Owner shall provide the City thirty (30) days prior written notice of any such assignment. If the City has objections to such assignment satisfying the requirements described above, the City shall provide written notice of such objections to the Owner within ten (10) days of receiving the assignment notice from Owner. Owner will not be released from its obligations under this Agreement if the City objects to the assignment as described above and such objections are not resolved by and between Owner and the City; provided, however, the City shall not unreasonably withhold Owner's release from its obligations under this Agreement.

(c) Upon any such assignment, Owner shall be deemed to be automatically released of any obligations under this Agreement.

(d) Any assignment must be in writing, set forth the assigned rights and obligations and be executed by the proposed assignee. A copy of the assignment document must be delivered to the City.

8.6 **Amendment.** This Agreement may be amended only by the mutual written agreement of the Parties. As the Parties continue work on the pre-development activities contemplated herein and prepare the various agreements referenced herein in connection with the design, development, and financing of the Project, the parties will amend this Agreement to incorporate additional details, terms and conditions and the various agreements referenced above shall be appended as exhibits to this Agreement. Amendments to this Agreement may be approved administratively by the City. A successor of portions of the Property (such as a purchaser of a lot within the subdivision) does not make such successor a "Party." Owner's rights under this Agreement must be specifically assigned to a successor in order for such successor to be a "Party."

8.7 **Entire Agreement.** All Parties mutually agreed to the terms of this Agreement. The Agreement shall not be construed in favor of or against one Party. It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement except as expressly provided in this Agreement. This Agreement contains the entire agreement between the Parties; there are no other terms, promises, conditions, or obligations other than those contained herein. This Agreement shall supersede all previous communications, representations or agreements, either oral or written.

8.8 **Notice.** Any notice and or statement required and permitted to be delivered shall be deemed delivered by actual delivery, by electronic mail, or by depositing the same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses:

If to City:

City of Hutto
Attn: City Manager
500 W. Live Oak St.
Hutto, TX 78634
Phone: (512) 759-4030

With required copy to: Alan Bojorquez,
Bojorquez Law Firm, PC
11675 Jollyville Road, Suite 300
Austin, Texas 78759
Phone: (512) 250-0411
Email: Alan@texasmunicipallawyers.com

If to Owner: Jerry Wayne Roznovak
3051 CR 101
Hutto, TX 78634

Nadine Carole Johnson
P. O. Box 194
Hutto, Texas 78634

With a required copy to: MA Partners, LLC
230 Klattenhoff Lane, Ste. 102
Hutto, Texas 78634
Attn: Wyatt Henderson and Bob Wunsch
Phone: 972-715-6450
Email: whenderson@madev.com; bob@waterstonedevelopment.com

With required copy to: Alan M. McGraw, PC
211 Round Rock Ave.
Round Rock, Texas 78664
Attn: Alan McGraw
Phone: (512) 246-1986
Email: alan@alanmcgraw.com

Any Party may designate a different address at any time upon written notice to the other Parties.

8.9 **Interpretation.** Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, however its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any Party.

8.10 **Applicable Law.** This Agreement is made, and shall be construed and interpreted, under the laws of the State of Texas and venue shall lie in Williamson County, Texas.

8.11 **Severability.** In the event any provisions of this Agreement are illegal, invalid or unenforceable under present or future laws, and in that event, it is the intention of the Parties that the remainder of this Agreement shall not be affected. It is also the intention of the Parties of this Agreement that in lieu of each clause and provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid or enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

8.12 **Waiver.** The waiver by either Party of a breach, default, delay or omission of any of the provisions of this Agreement by the other Party will not be construed as a waiver of any

subsequent breach of the same or other provisions. Either City or Owner shall have the right to waive any requirement contained in this Agreement that is intended for the waiving party's benefit, but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the Party for whose benefit such requirement is intended.

8.13 Paragraph Headings. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.

8.14 No Personal liability of public officials or the City. To the extent permitted by State law, neither the City, any City agent or representative, nor any public official or employee shall be personally responsible for any liability arising under or related to this Agreement. Owner is to be compensated, reimbursed, and paid any damages solely from TIRZ tax increments or bond funds. This Agreement imposes no in personal liability upon the City, any of its officers, employees, or agents, or upon any TIRZ, hereinafter, created.

8.15 Approval by the parties. Whenever this Agreement requires or permits approval or consent to be hereafter given by either of the Parties, the Parties agree that such approval or consent shall not be unreasonably withheld or delayed.

8.16 Time. Time is of the essence of this Agreement. In computing the number of days in a time period all days will be counted excluding the day of the event that triggers the period, including Saturdays, Sundays and Legal Holidays; however, if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday or Legal Holiday.

8.17 No Third-Party Beneficiaries. This Agreement is not intended to confer any rights, privileges or causes of action upon any non-party other than as to insurance, indemnity, defense, and hold harmless.

8.18 Survival. In addition to any provisions for survival of provisions of and obligations under this Agreement elsewhere in this Agreement, the following sections and provisions survive any expiration, termination, or rescission of this Agreement.

Indemnity

Insurance coverage for covered risks during the Term of this Agreement.

Coverage of any bonds, letters of credit, and third-party guarantees issued in accordance with this Agreement

Representations and warranties of the parties.

8.19 No Boycott of Israel. If applicable, if the contractor employs 10 or more full-time employees and the contract has a value of \$100,000 or more, contractor shall comply with the provisions of Section 2270.001(2), Government Code that the contractor does not boycott Israel or that during the term of the contract will not boycott Israel.

8.20 HB 1295 Compliance. Section 2252.908 of the Texas Government Code requires that for certain types of contracts, you must fill out a conflict of interest form ("Disclosure of Interested Parties") at the time you submit your signed contract to the District. For further information please go to the Texas Ethics Commission website via the following link. https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. The City has no obligation under this Agreement until such form is accurately completed and properly submitted, and any City obligation is conditioned on such proper completion and submission.

8.21 Further Acts. In addition to the acts and deeds recited in this Agreement and contemplated to be performed, executed, and/or delivered by the parties, the City and Owner agree to perform, execute, and/or deliver or cause to be performed, executed, and/or delivered at such time or times as may be necessary or appropriate under this Agreement any and all further lawful acts, deeds, and assurances as are reasonably necessary or appropriate to consummate and implement the transactions and agreements reasonably contemplated hereby.

8.22 Reservation of Rights. To the extent not inconsistent with this Agreement, each Party reserves all rights, privileges, and immunities under applicable laws.

8.23 Force Majeure. Except as otherwise provided herein, an equitable adjustment shall be made for delay or failure in performing if such delay or failure is caused, prevented, or restricted by conditions beyond that Party's reasonable control (an "Event of Force Majeure"). An Event of Force Majeure for the purposes of this Agreement shall include, but not be limited to, acts of God, fire; explosion, vandalism; storm, pandemics or similar occurrences; orders or acts of military or civil authority; changes in law, rules, or regulations outside the control of the affected Party; national emergencies or insurrections; riots; acts of terrorism; or supplier failures, shortages or breach or delay; unusual weather events; a recession; and unusual delays in obtaining City approvals of plats, permits, or other development approvals required to construct and operate the Project. For purpose of this provision, a "recession" shall mean a recession consisting of two (2) consecutive quarters of negative economic growth as measured by the gross domestic product for the Dallas-Fort Worth metropolitan area according to the U.S. Department of Commerce, Bureau of Economic Analysis. Except as otherwise expressly provided herein, there shall be an equitable adjustment allowed for performance under this Agreement as the result of any Event of Force Majeure.

8.24 No Joint Venture. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create any partnership or joint venture among the Parties. The City, its past, present and future officers, elected officials, employees and agents of the City, do not assume any responsibilities or liabilities to any third party in connection with the development of the Project or the design, construction or operation of any portion of the Project.

8.25 Additional Compliance. Pursuant to Section 2252.152, Texas Government Code, neither the Owner nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Owner is a company currently listed by the Texas Comptroller of Public Accounts under Section 806.051, 807.051, or 2252.153 of the Texas Government Code.

8.26 Term. This Agreement shall become enforceable upon its Effective Date and shall expire 35 years after the date the City has issued the last Certificates of Occupancy for the Project, unless the Parties agree to terminate it sooner.

8.27 **Consideration.** This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is hereby acknowledged.

8.28 **Titles and Headings.** All titles or headings are only for the convenience of the parties and shall not be construed to have any effect or meaning as to the agreement between the parties hereto. Any reference herein to a section or subsection shall be considered a reference to such section or subsection of this Agreement unless otherwise stated.

8.29- **Exhibits.** The following exhibits are attached and incorporated by reference for all purposes:

Exhibit A: Property Description and Depiction

Exhibit B: Concept Plan

Exhibit C: Waterline Extension

Exhibit D: Alternative Road and Trench

Exhibit E: Dedicated Parkland

EXECUTED to be effective as of the Effective Date

**[REMAINDER OF PAGE INTENTIONALLY BLANK]
[SIGNATURES PROVIDED ON NEXT PAGE]**

CITY OF HUTTO, TEXAS,
a home rule city and municipal corporation

By: _____
Charles Daniels
Interim City Manager
Date: _____

ATTEST:

By: _____
Holly Nagy
City Secretary for the City of Hutto

Date: _____

OWNER:

Jerry Wayne Roznovak

Nadine Carole Johnson

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me, the undersigned authority, this ____ day
of _____, 2020, by Nadine Carole Johnson.

[Seal]

Notary Public ★ State of Texas

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me, the undersigned authority, this ____ day
of _____, 2020, by Jerry Wayne Roznovak.

[Seal]

Notary Public ★ State of Texas

EXHIBIT A
Property Description and Depiction

Williamson County, Texas
J. Shelton Survey, Abstract No. 560
E. Thomason Survey, Abstract No. 844
W.J. Brown Survey, Abstract No. 105

94.560 Acres
Page 1 of 3

"EXHIBIT —"

DESCRIPTION OF 94.560 ACRES OF LAND IN THE J. SHELTON SURVEY, ABSTRACT NO. 560, THE E. THOMASON SURVEY, ABSTRACT NO. 844, AND THE W.J. BROWN SURVEY, ABSTRACT NO. 105, WILLIAMSON COUNTY, TEXAS; BEING A PORTION OF A CERTAIN CALLED 96.99 ACRE TRACT DESIGNATED AS TRACT ONE AND DESCRIBED IN THE DEED TO JERRY E. ROZNOVAK AND WIFE, HILDA ROZNOVAK OF RECORD IN VOLUME 443, PAGE 472, DEED RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID 94.560 ACRES OF LAND, AS SURVEYED BY LANDDEV CONSULTING, LLC, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½-inch iron rod with a plastic cap stamped "RJ Survey" (Grid Coordinates: N= 10,177,139.20, E= 3,174,174.80) found in the west right-of-way line of F.M. 1660, a variable-width right-of-way, in the north line of the said 96.99 acre tract, at the easterly southeast corner of a certain called 201.06 acre tract described in the deed to Billie B. Davenport of record in Volume 1079, Page 938, Deed Records of Williamson County, Texas, same being the southwest corner of a certain called 4.758 acre tract described in the deed to the State of Texas of record in Volume 476, Page 605, Deed Records of Williamson County, Texas, same being the northwest corner of a certain called 3.722 acre tract described in the deed to the State of Texas of record in Volume 476, Page 607, Deed Records of Williamson County, Texas, for the northeast corner and **POINT OF BEGINNING** of the tract described herein;

THENCE leaving the easterly southeast corner of the said 201.06 acre tract, crossing the said 96.99 acre tract, with the west right-of-way line of said F.M. 1660, and the west line of the said 3.722 acre tract, with the east line of the tract described herein, the following five (5) courses and distances:

1. with the arc of a curve to the left, having a radius of 1,186.28 feet, an arc distance of 167.73 feet, and a chord which bears S 05°38'19" E, a distance of 167.59 feet to a calculated point-of-tangency, from which a destroyed Texas Department of Transportation (TXDOT) Type-1 concrete right-of-way monument found bears S 84°08'53" W, a distance of 0.45 feet,
2. S 09°45'32" E, a distance of 467.63 feet to a Texas Department of Transportation (TXDOT) Type-1 concrete right-of-way monument found at a point-of-curvature,
3. with the arc of a curve to the right, having a radius of 1,106.28 feet, an arc distance of 335.98 feet, and a chord which bears S 01°06'29" E, a distance of 334.69 feet to a Texas Department of Transportation (TXDOT) Type-1 concrete right-of-way monument found at a point-of-tangency,
4. S 07°51'42" W, a distance of 790.50 feet to a ¾-inch iron rod found at an angle point, and
5. S 07°39'43" W, a distance of 421.01 feet to a ½-inch iron rod with a plastic cap stamped "RJ Survey" found in the west line of the said 3.722 acre tract, in the north line of a certain called 0.51 acre tract described in the deed to Nadine Carole Johnson and Dennis Johnson of record in Document No. 2006083936, Official Public Records of Williamson County, Texas, for a southeast corner of the tract described herein, from which a ½-inch iron rod with a plastic cap stamped "RPLS 1433" found in the west right-of-way line of said F.M. 1660 at the northeast corner of the said 0.51 acre tract bears S 82°31'24" E, a distance of 21.83 feet;

THENCE N 82°16'34" W, leaving the west right-of-way line of said F.M. 1660, and the west line of the said 3.722 acre tract, crossing the said 96.99 acre tract, with the north line of the said 0.51 acre tract, and with a south line of the tract described herein, a distance of 179.38 feet to a 1/2-inch iron rod with a plastic cap stamped "RJ Survey" found at the northwest corner of the said 0.51 acre tract, for a re-entrant corner of the tract described herein;

THENCE S 07°29'25" W, continuing across the said 96.99 acre tract, with the west line of the said 0.51 acre tract, with the east line of the tract described herein, a distance of 114.42 feet to a ½-inch iron rod with a plastic cap stamped "RPLS 1433" found at a re-entrant corner of the said 96.99 acre tract, at the southwest corner of the said 0.51 acre tract, same being the northwest corner of a certain called 4/5ths of an acre described in the special warranty deed with life estate to Robert W. Kaderka and wife, Bonnie Kaderka of record in Document No. 2015074295, Official Public Records of Williamson County, Texas, for an angle point in the east line of the tract described herein;

THENCE S 07°42'22" W, with the east line of the said 96.99 acre tract, with the west line of the said 4/5ths of an acre tract, and with the west line of a certain called 0.51 acre tract described in the deed to Bruce Craig Cunningham of record in Volume 1954, Page 227, Official Public Records of Williamson County, Texas, with the east line of the tract described herein, a distance of 180.55 feet to a ½-inch iron rod with a plastic cap stamped "RJ Survey" found at an angle point;

Williamson County, Texas
J. Shelton Survey, Abstract No. 560
E. Thomason Survey, Abstract No. 844
W.J. Brown Survey, Abstract No. 105

94.560 Acres
Page 2 of 3

THENCE S 06°40'19" W, with the east line of the said 96.99 acre tract, with the west line of the said 0.51 acre tract, and with the west line of a certain called 0.484 acre tract described in the deed to Marla Dawn Burns of record in Document No. 9722814, Official Public Records of Williamson County, Texas, with the east line of the tract described herein, a distance of 200.68 feet to a ½-inch iron rod found in the north line of a certain called 0.480 acre tract described in the deed to John A. Drummond, Sr. of record in Document No. 9662944, Official Public Records of Williamson County, Texas, at the southwest corner of the said 0.484 acre tract, same being a southeast corner of the said 96.99 acre tract, for a southeast corner of the tract described herein;

THENCE N 81°53'59" W, with the north line of the said 0.480 acre tract and a south line of the said 96.99 acre tract, with a south line of the tract described herein, a distance of 10.57 feet to a fence corner post found at a re-entrant corner;

THENCE S 08°03'45" W, with the west line of the said 0.480 acre tract and the west line of a certain called 0.59 acre tract described in the deed to Jonathan M. Wagner and Marci H. Wagner of record in Document No. 2016117309, Official Public Records of Williamson County, Texas, with the east line of the said 96.99 acre tract, with the east line of the tract described herein, a distance of 223.01 feet to a concrete monument found in the north line of a certain called 2.47 acre tract described in the deed to Charles E. Holland and Deborah D. Holland of record in Volume 868, Page 561, Deed Records of Williamson County, Texas, at the southwest corner of the said 0.59 acre tract, same being a southeast corner of the said 96.99 acre tract, for a southeast corner of the tract described herein;

THENCE N 82°23'05" W, with the north line of the said 2.47 acre tract, with a south line of the said 96.99 acre tract, with a south line of the tract described herein, a distance of 242.61 feet to a 3/8-inch iron rod found at the northwest corner of the said 2.47 acre tract, at the northeast corner of Block 4, Hutto and Metcalfe Addition, a subdivision according to the plat of record in Book 66, Page 148, Deed Records of Williamson County, Texas, and as shown on the Revised Map of City of Hutto of record in Cabinet A, Slide 221, Plat Records of Williamson County, Texas, for a re-entrant corner of the tract described herein;

THENCE S 07°38'01" W, with the west line of the said 2.47 acre tract and an east line of the said 96.99 acre tract, with the east line of said Block 4 and Block 3, said Hutto and Metcalfe Addition, with an east line of the tract described herein, a distance of 298.64 feet to a ½-inch iron rod found at the southeast corner of said Block 3, Hutto and Metcalfe Addition, and the northeast corner of a certain called 0.659 acre tract described in the deed to Dennis O. Johnson and Nadine C. Johnson of record in Document No. 2001074832, Official Public Records of Williamson County, Texas, for the southerly southeast corner of the tract described herein;

THENCE S 77°34'56" W, crossing the said 96.99 acre tract, with the north line of the said 0.659 acre tract, with the south line of the tract described herein, a distance of 253.79 feet to a ¼-inch iron rod found at the northwest corner of the said 0.659 acre tract, and the northeast corner of Lot 2, Block 2, said Hutto and Metcalfe Addition, for an angle point in the south line of the tract described herein,

THENCE S 77°37'39" W, continuing across the said 96.99 acre tract, with the north line of said Lot 2, Block 2, Hutto and Metcalfe Addition, with the south line of the tract described herein, a distance of 91.78 feet to a concrete monument found in a west line of the said 96.99 acre tract, at the intersection of the south line of an alley and the east right-of-way line of East Street, a 60-foot right-of-way, as shown on the said Hutto and Metcalfe Addition subdivision plat, at the northwest corner of said Lot 2, Block 2, Hutto and Metcalfe Addition, for the southerly southwest corner of the tract described herein;

THENCE N 12°28'30" W, with the east right-of-way line of said East Street, the west line of the said 96.99 acre tract, with the west line of Lot 6, Block 2, and the west line of Block 5, said Hutto and Metcalfe Addition, with a west line of the tract described herein, a distance of 439.34 feet to a ½-inch iron rod with a plastic cap stamped "RJ Survey" found at the northeast terminus of said East Street, at the northwest corner of said Block 5, said Hutto and Metcalfe Addition, for an angle point in the south line of the tract described herein;

THENCE N 82°21'12" W, with the south line of the said 96.99 acre tract, with the north terminus of said East Street, with the northeast terminus of Capitol Street, a 50-foot right-of-way, as shown on the said Hutto and Metcalfe Addition subdivision plat, with the south line of the tract describe herein, a distance of 220.17 feet to a ½-inch iron rod with a plastic cap stamped "RJ Survey" found at an angle point in the north right-of-way line of said Capitol Street, at the east corner of Block 9, said Hutto and Metcalfe Addition, for an angle point in the south line of the tract described herein;

THENCE S 76°41'29" W, with the south line of the said 96.99 acre tract, with the north right-of-way line of said Capitol Street, with the south line of Block 9 and Block 13, said Hutto and Metcalfe Addition, a distance of 350.53 feet to a ½-inch iron rod with a plastic cap stamped "RJ Survey" found in the east line of Lot 4, Block F, Hutto Square Section 1, a subdivision according to the plat of record in Cabinet W, Slides 263-267, Plat Records of Williamson County, Texas, at a southwest corner of the said 96.99 acre tract, for a southwest corner of the tract described herein;

LandDev Consulting, LLC ▪ 5508 Highway 290 West, Suite 150, Austin, TX 78735 ▪ (512) 872-6696
TBPE Firm No. 16384 | TBPLS Firm No. 10194101

Williamson County, Texas
J. Shelton Survey, Abstract No. 560
E. Thomason Survey, Abstract No. 844
W.J. Brown Survey, Abstract No. 105

94.560 Acres
Page 3 of 3

THENCE with the west line of the said 96.99 acre tract, the east line of said Hutto Square Section 1, the east line of Hutto Square Section 2, a subdivision according to the plat of record in Cabinet Y, Slides 154-157, Plat Records of Williamson County, Texas, with the east line of Hutto Square Section 3, a subdivision according to the plat of record in Cabinet CC, Slides 138-139, Plat Records of Williamson County, Texas, with the west line of the tract described herein, the following four (4) courses and distances:

1. N 07°40'21" E, a distance of 55.89 feet to a ½-inch iron rod with a plastic cap stamped "4391" found at the north corner of Lot 4, the east corner of Lot 5, southeast corner of Lot 39, and the south corner of Lot 40, Block F, said Hutto Square Section 1, for an angle point of the tract described herein,
2. N 07°38'18" E, a distance of 655.93 feet to a ½-inch iron rod with a plastic cap stamped "RJ Survey" found in the east line of Lot 48, Block F, said Hutto Square Section 2, for an angle point of the tract described herein,
3. N 07°46'41" E, a distance of 230.55 feet to a ½-inch iron rod with a plastic cap stamped "RPLS 4391" found at the northeast corner of Lot 51 and the southeast corner of Lot 52, Block F, said Hutto Square Section 2, for an angle point of the tract described herein, and
4. N 07°46'30" E, a distance of 2,059.60 feet to a concrete monument found in the east line of Lot 91, Block F, said Hutto Square Section 3, at the northwest corner of the said 96.99 acre tract, same being a re-entrant corner of the said 201.06 acre tract, for the northwest corner of the tract described herein;

THENCE S 82°15'43" E, with the north line of the said 96.99 acre tract and a south line of the said 201.06 acre tract, with the north line of the tract described herein, a distance of 1,222.52 feet to the **POINT OF BEGINNING** and containing 94.560 acres of land, more or less.

BEARING BASIS: Texas Coordinate System, Central Zone, NAD83, Grid.

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF TRAVIS

That I, Ernesto Navarrete, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the parcel of land described herein is based upon a survey performed upon the ground under my direct supervision during the month of April, 2019.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, this 03rd day of May 2019 A.D.

LANDDEV CONSULTING, LLC
5508 Highway 290 West, Suite 150
Austin, Texas 78735


Ernesto Navarrete
Registered Professional Land Surveyor
No. 6642 - State of Texas



LandDev Consulting, LLC • 5508 Highway 290 West, Suite 150, Austin, TX 78735 • (512) 872-6696
TBPE Firm No. 16384 | TBPLS Firm No. 10194101

"EXHIBIT _"

DESCRIPTION OF 10.554 ACRES OF LAND IN THE E. THOMASON SURVEY, ABSTRACT NO. 844, AND THE CANUTILLO COLONY DITCH COMPANY SURVEY, ABSTRACT NO. 693, WILLIAMSON COUNTY, TEXAS; BEING A PORTION OF A CERTAIN CALLED 11.10 ACRE TRACT DESIGNATED AS TRACT TWO AND DESCRIBED IN THE DEED TO JERRY E. ROZNOVAK AND WIFE, HILDA ROZNOVAK OF RECORD IN VOLUME 443, PAGE 472, DEED RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID 10.554 ACRES OF LAND, AS SURVEYED BY LANDDEV CONSULTING, LLC, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a ½-inch iron rod with a plastic cap stamped "RJ Survey" (Grid Coordinates: N= 10,177,139.20, E= 3,174,174.80) found in the west right-of-way line of F.M. 1660, a variable-width right-of-way, in the north line of a certain called 96.99 acre tract designated as Tract One and described in said deed to Jerry E. Roznovak and wife, Hilda Roznovak of record in Volume 443, Page 472, Deed Records of Williamson County, Texas, at the easterly southeast corner of a certain called 201.06 acre tract described in the deed to Billie B. Davenport of record in Volume 1079, Page 938, Deed Records of Williamson County, Texas, same being the southwest corner of a certain called 4.758 acre tract described in the deed to the State of Texas of record in Volume 476, Page 605, Deed Records of Williamson County, Texas, and the northwest corner of a certain called 3.722 acre tract described in the deed to the State of Texas of record in Volume 476, Page 607, Deed Records of Williamson County, Texas, from which a concrete monument found in the east line of Lot 91, Block F, said Hutto Square Section 3, a subdivision according to the plat of record in Cabinet CC, Slides 138 and 139, Plat Records of Williamson County, Texas, at the northwest corner of the said 96.99 acre tract, same being a re-entrant corner of the said 201.06 acre tract bears N 82°15'43" W, a distance of 1,222.52 feet;

THENCE S 82°15'43" E, crossing the said F.M. 1660 right-of-way, a distance of 97.80 feet to a ½-inch iron rod with a plastic cap stamped "LANDDEV" set in the east right-of-way line of said F.M. 1660, in the north line of the said 11.10 acre tract, at the northeast corner of the said 3.722 acre tract and the southeast corner of a certain called 1.529 acre tract described in the deed to the State of Texas of record in Volume 476, Page 603, Deed Records of Williamson County, Texas, in the south line of a certain called 135 acre tract described in the deed to Janet Lynn Barnard, Trustee for the Janet Lynn Barnard Family 1984 Trust of record in Volume 1126, Page 800, Deed Records of Williamson County, Texas, same being the southwest corner of a certain called 65.234 acre tract conveyed to CMSAL-2 L.L.C. of record in Document No. 2011084930, Official Public Records of Williamson County, Texas, and described in Document No. 1999014821, Official Public Records of Williamson County, Texas, for the northwest corner and **POINT OF BEGINNING** of the tract described herein, from which a Texas Department of Transportation (TXDOT) Type-1 concrete right-of-way monument found in the east right-of-way line of said F.M. 1660, in the east line of the said 1.529 acre tract, and the west line of a certain called 28.449 acre tract described in the deed to North Town Commons, LLC of record in Document No. 2007062953, Official Public Records of Williamson County, Texas, bears N 03°15'10" W, a distance of 192.32 feet, and from which a ½-inch iron rod found bears N 02°00'51" W, a distance of 10.60 feet;

THENCE S 82°15'43" E, with the north line of the said 11.10 acre tract and the south line of the said 135 acre tract, with the south line of the said 65.234 acre tract, with the north line of the tract described herein, a distance of 498.95 feet to a ½-inch iron rod with a plastic cap stamped "LANDDEV" set for the northeast corner of the said 11.10 acre tract, at a re-entrant corner of the said 135 acre tract, in the south line of the said 65.234 acre tract, for the northeast corner of the tract described herein;

THENCE S 07°38'01" W, with the east line of the said 11.10 acre tract and the west line of the said 135 acre tract, with the east line of the tract described herein, at a distance of 9.91 feet, passing a ½-inch iron rod with a plastic cap stamped "PAPE DAWSON" found, and continuing for a total distance of 17.36 feet to a calculated point for a southeast corner of the tract described herein, from which a ½-inch iron rod found bears N 74°00'05" E, a distance of 0.23 feet;

THENCE leaving the west line of the said 135 acre tract, crossing the said 11.10 acre tract, with a south, east, and north line of the tract described herein, the following three (3) courses and distances:

1. N 82°21'59" W, a distance of 50.00 feet to a ½-inch iron rod with a plastic cap stamped "LANDDEV" set for a re-entrant corner,
2. S 07°38'01" W, a distance of 50.00 feet to a ½-inch iron rod with a plastic cap stamped "LANDDEV" set for a re-entrant corner, and
3. S 82°21'59" E, a distance of 50.00 feet to a calculated point in the east line of the said 11.10 acre tract and west line of a certain called 72.025 acre tract described in the deed to Mager Meadows, LP of record in Document No. 2004018146, Official Public Records of Williamson County, Texas, for a northeast corner of the tract described herein, from which a ½-inch iron rod found bears S 61°01'59" E, a distance of 0.33 feet;

THENCE S 07°38'01" W, with the east line of the said 11.10 acre tract and the west line of the said 72.025 acre tract, with the east line of the tract described herein, a distance of 1,292.44 feet to a ½-inch iron rod found in the north line of a certain called

Williamson County, Texas
E. Thomason Survey, Abstract No. 844
Canutillo Colony Ditch Company Survey, Abstract No. 693

10.554 Acres
Page 2 of 2

9.862 acre tract described in the deed to Herbert L. Prewitt and wife, Connie E. Prewitt of record in Volume 876, Page 655, Deed Records of Williamson County, Texas, at the southwest corner of the said 72.025 acre tract and the southeast corner of the said 11.10 acre tract, for the southeast corner of the tract described herein;

THENCE N 82°26'32" W, with the south line of the said 11.10 acre tract and the north line of the said 9.862 acre tract, with the south line of the tract described herein, at a distance of 2.07 feet, passing a concrete monument found 0.12 feet north of the line, and continuing for a total distance of 285.57 feet to a 5/8-inch iron rod found in the east right-of-way line of said F.M. 1660, and the south line of the said 11.10 acre tract, at a southeast corner of the said 3.722 acre tract and the northeast corner of a certain called 0.311 acre tract described in the deed to the State of Texas of record in Volume 476, Page 612, Deed Records of Williamson County, Texas, at the northwest corner of the said 9.862 acre tract, for the southwest corner of the tract described herein;

THENCE crossing the said 11.10 acre tract, with the east right-of-way line of said F.M. 1660, with the east line of the said 3.722 acre tract, with the west line of the tract described herein, the following four (4) courses and distances:

1. N 07°21'46" E, a distance of 421.34 feet to a destroyed Texas Department of Transportation (TXDOT) Type-I concrete right-of-way monument found at an angle point,
2. N 07°33'54" E, a distance of 324.41 feet to a destroyed Texas Department of Transportation (TXDOT) Type-I concrete right-of-way monument found at an angle point,
3. N 13°27'20" W, a distance of 513.66 feet to a destroyed Texas Department of Transportation (TXDOT) Type-I concrete right-of-way monument found at an angle point, and
4. N 03°15'10" W, a distance of 138.59 feet to the **POINT OF BEGINNING** and containing 10.554 acres of land, more or less.

BEARING BASIS: Texas Coordinate System, Central Zone, NAD83, Grid.

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF TRAVIS

That I, Ernesto Navarrete, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the parcel of land described herein is based upon a survey performed upon the ground under my direct supervision during the month of April and May, 2019.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, this 20th day of May 2019 A.D.

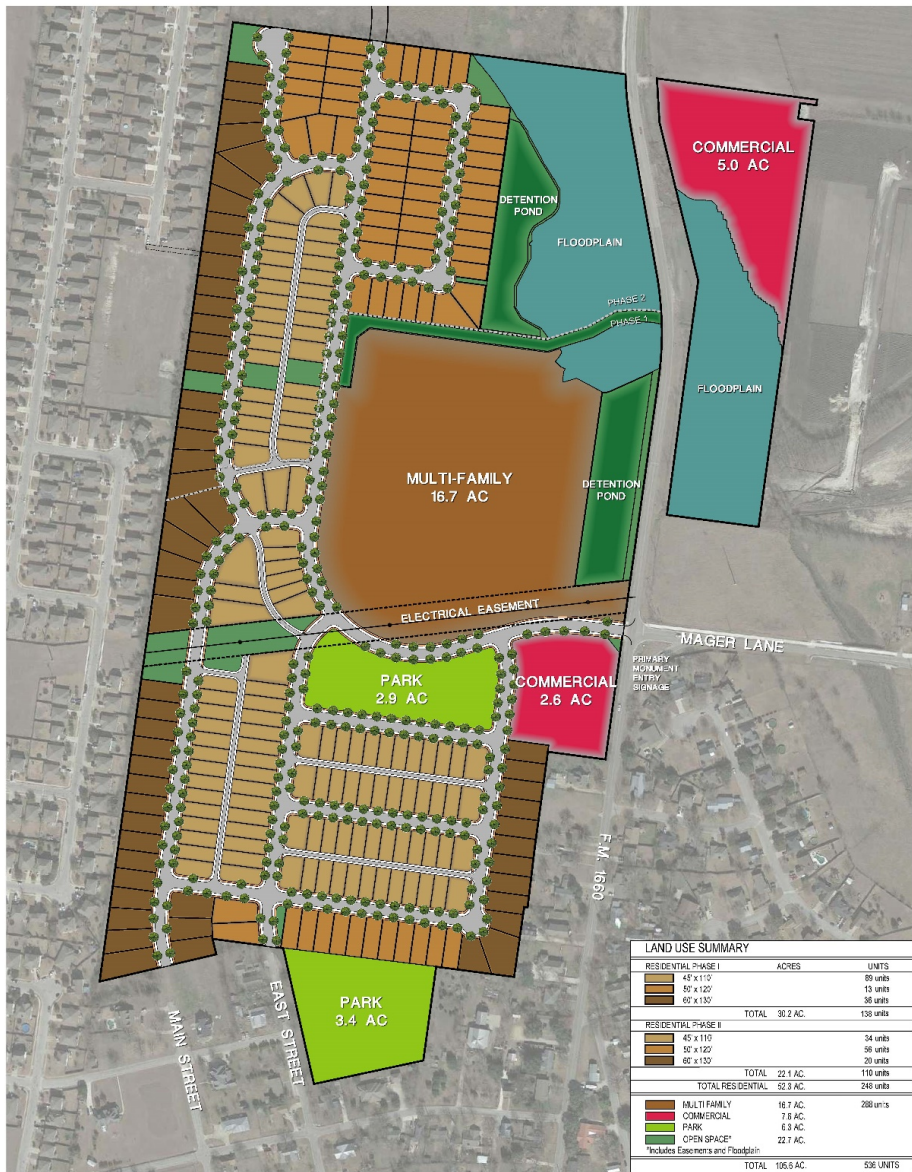
LANDDEV CONSULTING, LLC
5508 Highway 290 West, Suite 150
Austin, Texas 78735


Ernesto Navarrete
Registered Professional Land Surveyor
No. 6642 -- State of Texas



LandDev Consulting, LLC • 5508 Highway 290 West, Suite 150, Austin, TX 78735 • (512) 872-6696
TBPE Firm No. 16384 | TBPLS Firm No. 10194101

EXHIBIT B
Concept Plan



SEC Planning, LLC
Land Planning • Landmarks/Architecture • Community Building
5100 BLISS
HOUSTON, TEXAS 77056
www.secplanning.com • info@secplanning.com

LOTGING PLAN I
DURANGO FARMS
HUTTO, TEXAS

North
Scale: 1" = 100'
Date: February 19, 2020

THIS PLAN IS A CONCEPTUAL PLAN. THE INFORMATION HEREIN IS FOR INFORMATIONAL PURPOSES ONLY AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE. THE INFORMATION HEREIN IS NOT A GUARANTEE OF ANY KIND AND IS NOT TO BE USED FOR ANY OTHER PURPOSE. THE INFORMATION HEREIN IS NOT A GUARANTEE OF ANY KIND AND IS NOT TO BE USED FOR ANY OTHER PURPOSE.

EXHIBIT C Waterline Extension

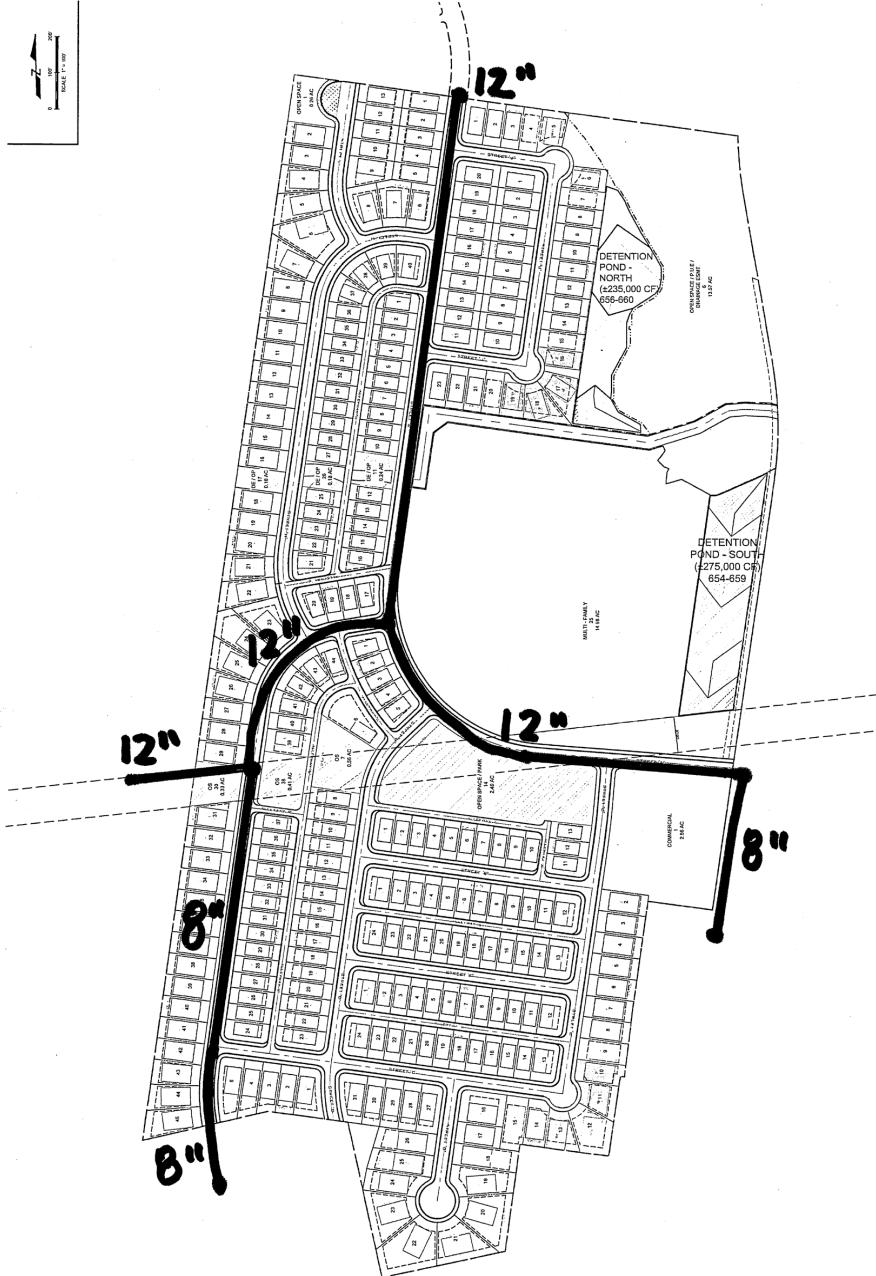


EXHIBIT D
Alternative Road and Trench

Street Classification	Subgrade Material	Hot Mix Asphaltic Concrete, in	Crushed Limestone Base, in	Lime Stabilized Subgrade, in
Residential Local	Subgrade PI greater than 20	2.0	9	8
Residential Collector	Subgrade PI greater than 20	2.0	14	8
Neighborhood Collector	Subgrade PI greater than 20	2.5	17	8

Notes:

1. The surface clay must first be tested for sulfate reaction and a mix design should be completed to determine the proper lime content, lime type, mixing procedure and curing conditions required.
2. We have determined that chemical stabilizers may be used in lieu of lime. The subgrade may be stabilized using EMC Squared and EMS products in accordance with the manufacture Subgrade Specification (Section 02335). Compaction of the treated material shall be 95 percent of TxDOT TEX-114-E. Compaction should be performed with the moisture content of the soil adjusted to within 2 percent of optimum moisture content. This method has proven to be successful in similar soil conditions in the area of this project.
3. The subgrade improvement should be extended 3 feet beyond the back of the curb line.
4. Trenches should be strategically backfilled with on-site material in accordance with the current City of Georgetown's Construction Specifications and Standards G4.05 E. Backfilling Operation Item 2.
5. These pavement thickness designs are intended to transfer the load from the anticipated traffic conditions.
6. The responsibility of assigning street classification to the streets in this project is left to the civil engineer.
7. If pavement designs other than those listed above are desired, please contact MLA Geotechnical.

Exhibit E
Dedicated Parkland

